



# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC UTILITIES

D.P.U. 18-15-A

June 29, 2018

Investigation by the Department of Public Utilities, on its own Motion, into the Effect of the Reduction in Federal Income Tax Rates on the Rates Charged by Electric, Gas, and Water Companies.

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## I. INTRODUCTION

On December 22, 2017, the Tax Cuts and Jobs Act of 2017 (“Act”) was signed into law.<sup>1</sup> Among other things, the Act reduces the federal corporate income tax rate from 35 percent to 21 percent, effective January 1, 2018.<sup>2</sup> On December 20, 2017, two days prior to the signing of the Act, the Attorney General of the Commonwealth (“Attorney General”) filed a complaint and petitioned the Department to open an investigation, pursuant to G.L. c. 164, § 93 (“Petition”), to reduce the rates of the following companies based upon the decrease in the federal corporate income tax rate: Aquarion Water Company of Massachusetts, Inc. (“Aquarion”); Bay State Gas Company d/b/a Columbia Gas of Massachusetts (“Bay State”); The Berkshire Gas Company (“Berkshire Gas”); Boston Gas Company and Colonial Gas Company, each d/b/a National Grid (together, “National Grid (Gas)”); Fitchburg Gas and Electric Light Company (Gas and Electric Divisions) d/b/a Unitil (“Unitil (Gas)” and “Unitil (Electric)”); Liberty Utilities (New England Natural Gas Company) Corp. d/b/a Liberty Utilities (“Liberty Utilities”); Massachusetts Electric Company and Nantucket Electric Company, each d/b/a National Grid (“National Grid (Electric)”); Milford Water Company (“Milford Water”); NSTAR Electric Company, d/b/a

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<sup>1</sup> Pub. L. No. 115-97, 131 Stat. 2054: An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018.

<sup>2</sup> Prior to January 1, 2018, federal corporate income taxes were based on graduated rates. As of January 1, 2018, the corporate income tax rate is a flat rate.

Eversource Energy (“NSTAR Electric”);<sup>3</sup> and NSTAR Gas Company, d/b/a Eversource Energy (“NSTAR Gas”) (collectively, “Respondents”). The Department docketed the Attorney General’s Petition as D.P.U. 17-181.

On February 2, 2018, the Department, pursuant to G.L. c. 164 §§ 76, 93, 94 and G.L. c. 165, §§ 2, 4, opened an investigation into the effect on rates of the decrease in the federal corporate income tax rate on the Department’s regulated utilities. Investigation by the Department of Public Utilities, on its own Motion, into the Effect of the Reduction in Federal Income Tax Rates on the Rates Charged by Electric, Gas, and Water Companies, D.P.U. 18-15 (February 2, 2018). In the Order opening the investigation, the Department determined that its investigation and the Attorney General’s Petition involved common questions of law and fact, and, therefore, the Department consolidated D.P.U. 17-181 with the instant investigation. D.P.U. 18-15, at 3-4.<sup>4</sup> Further, the Department determined that in addition to the aforementioned regulated utilities identified by the Attorney General in her Petition, the focus of the Department’s investigation would include the following companies: Agawam Springs Water Company (“Agawam Springs”), Blackstone Gas Company

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<sup>3</sup> In NSTAR Electric Company and Western Massachusetts Electric Company, D.P.U. 17-05, at 28-55 (2017), the Department approved the corporate consolidation of Western Massachusetts Electric Company with and into NSTAR Electric Company pursuant to G.L. c. 164, § 96. The legal name of Eversource’s electric distribution company in Massachusetts is now NSTAR Electric Company d/b/a Eversource Energy.

<sup>4</sup> In doing so, the Department recognizes the Attorney General as a full party intervenor in the consolidated proceeding.



(“Blackstone Gas”), and Pinehills Water Company (“Pinehills Water”) (together with the Respondents, “Affected Companies”).<sup>5,6</sup> D.P.U. 18-15, at 4.

In its Order opening the investigation, the Department also found that the reduction in the federal corporate income tax rate results in both a lower tax expense on current income and booked accumulated deferred income taxes (“ADIT”)<sup>7</sup> that are in excess of future liabilities. D.P.U. 18-15, at 4. Accordingly, the Department concluded that the reduction in the federal corporate income tax rate pursuant to the Act constitutes evidence that the rates being charged by certain jurisdictional companies may no longer be just and reasonable as of January 1, 2018. D.P.U. 18-15, at 4-5.

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<sup>5</sup> A number of water companies have rates established using a federal corporate income tax expense based on a tax rate lower than 21 percent. See, e.g., Plymouth Water Company, D.P.U. 14-120 (2015). Therefore, these companies were not included in this investigation.

<sup>6</sup> The Department initially included Whitinsville Water Company (“Whitinsville Water”) in its investigation. D.P.U. 18-15, at 4. Subsequently, the Department approved a settlement in Whitinsville Water’s base rate proceeding that included the resolution of all issues raised in the instant docket. Whitinsville Water Company, D.P.U. 17-108-A at 10-11 (April 17, 2018). Accordingly, Whitinsville Water no longer is subject to investigation in this docket.

<sup>7</sup> Deferred income taxes are accrued when a company has a current deduction or credit for tax purposes, but not for book purposes. The Berkshire Gas Company, D.P.U. 90-121, at 136 (1990). The ADIT balance is a source of interest-free funds provided by ratepayers that a company can use without incurring borrowing costs or invest and accrue interest until the balance is needed to fund the taxes due and payable in later years. Therefore, for ratemaking purposes, ADIT represents an offset to a company’s rate base. Essex County Gas Company, D.P.U. 87-59, at 63 (1987); AT&T Communications of New England, Inc., D.P.U. 85-137, at 31 (1985); Boston Edison Company, D.P.U. 1350, at 42-43 (1983); Boston Edison Company, D.P.U. 18200, at 33-34 (1975).

To address this issue, the Department directed the Affected Companies, as of January 1, 2018, to account for any revenues associated with the difference between the previous and current corporate income tax rates. D.P.U. 18-15, at 5. In addition, the Department directed the Affected Companies to account for excess recovery in rates of ADIT resulting from the lower federal corporate income tax rate. D.P.U. 18-15, at 5. The Department directed the Affected Companies to book such amounts as regulatory liabilities, effective January 1, 2018, to be refunded to ratepayers in a manner to be determined by the Department in this proceeding. D.P.U. 18-15, at 5.

The Department also directed each Affected Company to file, on or before May 1, 2018,<sup>8</sup> a proposal, accompanied by testimony and supporting documentation, to address the effects of the Act and, in particular, a proposal to reduce its rates through the establishment of a revised cost of service incorporating the lower federal corporate income tax rate as of January 1, 2018, and holding all other components used to design rates constant. D.P.U. 18-15, at 5-6. The Department directed the Affected Companies to address in their respective proposals the adjustment of rates going forward and also incorporate the timely refund of revenues associated with the lower tax expense on current income and excess ADIT, and any other related adjustment necessitated by the Act. D.P.U. 18-15, at 5. The Department directed each Affected Company to base all

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<sup>8</sup> The filings were due on or before May 1, 2018, in order to allow the Affected Companies sufficient time to conduct a comprehensive review of the Act. See [NSTAR Electric Company and Western Massachusetts Electric Company](#), D.P.U. 17-05-C at 14 (2018).

calculations on the cost of service and billing determinants approved in its most recent rate case and to assume that, for ratemaking purposes, adjustments will occur for rates effective July 1, 2018. D.P.U. 18-15, at 6. To the extent that an Affected Company seeks to implement any part of its rate adjustment, including the refund of excess ADIT, on a date later than July 1, 2018, the Department found that the Affected Company must demonstrate that ratepayers will not be harmed by the proposal and that the proposal is otherwise in the public interest. D.P.U. 18-16, at 6 n.9. Finally, the Department directed the Affected Companies to identify in their respective proposals the effect, if any, of the federal corporate income tax rate decrease on their various reconciling mechanisms. D.P.U. 18-15, at 6.

## II. PROCEDURAL HISTORY

On or about May 1, 2018, the Department received filings from each of the Affected Companies. Although not identified as an Affected Company, Harbor Electric Energy Company (“HEEC”) also provided a response.<sup>9</sup>

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<sup>9</sup> HEEC is a wholly-owned subsidiary of NSTAR Electric for the purpose of supplying electricity to the Massachusetts Water Resources Authority’s (“MWRA”) wastewater treatment facility on Deer Island in Boston Harbor. Boston Edison Company, D.P.U. 89-220 (1989). In its Response, HEEC maintains that it has already implemented an appropriate Act-related reduction in its capacity and support charge (“CSC”) effective January 1, 2018, and it proposes to include the amortization of excess ADIT in its next annual filing for a CSC effective January 1, 2019 (HEEC Response at 2; Appendix 2).

On May 23, 2018, the Department issued a notice requesting comments on HEEC’s Response. D.P.U. 18-15-6, Notice of Filing and Request for Comments (May 23, 2018). On June 11, 2018, the Department received joint written comments from MWRA and HEEC. MWRA and HEEC agree that it would be appropriate and efficient to resolve excess ADIT amortization issues (if any) in the next annual CSC

In support of its filing, Blackstone Gas sponsored the testimony of Melissa Whiten, managing consultant, Daymark Energy Advisors, Inc.<sup>10</sup> Liberty Utilities sponsored the testimony of Janet M. Simpson, Vice President, Dively Energy Services Company. National Grid (Electric) and National Grid (Gas) together sponsored the joint testimony and supporting exhibits of David E. Tufts, Director of Revenue Requirements – New England and Pamela D. Busmich, Director of Income Tax – Massachusetts, both of National Grid USA Service Company, Inc. NSTAR Electric and NSTAR Gas jointly sponsored the testimony and supporting exhibits of Douglas Horton, Director of Revenue Requirements for Massachusetts, and Richard D. Chin, Manager of Rates, both of Eversource Energy Service Company. Unitil (Electric) and Unitil (Gas) separately sponsored testimony and supporting exhibits of David L. Chong, Director of Finance and Treasurer for Unitil Service Corp. The remaining Affected Companies did not sponsor a witness in this proceeding, though, as referenced below, Aquarion, Bay State, Berkshire and National Grid (Gas) sponsored testimony in their respective pending rate cases to address issues relative to the Act.

Pursuant to notice duly issued, the Department held a public hearing on June 18, 2018, during which the Department granted separate petitions to intervene as full

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proceeding rather than addressing such issues in the instant proceeding (MWRA and HEEC Joint Comments at 2). Accordingly, at the request of MWRA and HEEC, the Department confirms that the amortization of excess ADIT by HEEC will be addressed in HEEC's next annual filing for a CSC effective January 1, 2019, and not in the instant proceeding.

<sup>10</sup> The Department marks the testimony as Exhibit Blackstone-MW-1.

parties in D.P.U. 18-15-2 filed by the towns of Hingham, Hull, and Oxford. On June 15, 2018, and June 18, 2018, respectively, the Department received written comments from Walmart Inc. (“Walmart”) and the Attorney General.

In addition to the aforementioned testimony and supporting exhibits, the record includes responses to three sets of information requests issued by the Department and three sets issued by the Attorney General.<sup>11</sup>

### III. POSITIONS OF AFFECTED COMPANIES

#### A. Introduction

As described above, the Department directed each Affected Company to file a proposal to reduce its rates through the establishment of a revised cost of service incorporating the lower federal corporate income tax rate as of January 1, 2018, holding all other components used to design rates constant. D.P.U. 18-15, at 5-6. In the sections below, the Department summarizes the Affected Companies’ arguments regarding the Department authority to order rate adjustments related to the Act. In addition, the Department summarizes the Affected Companies various proposals to: (1) address the adjustment of rates going forward (i.e., for rates effective July 1, 2018, or later where ratepayers will not be harmed and otherwise in the public interest); (2) incorporate a timely refund of tax savings associated with the lower tax expense on current income;

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<sup>11</sup> Pursuant to 220 CMR § 1.10, the Department on its own motion moves into the evidentiary record the Affected Company’s initial filings, any testimony and supporting exhibits, and responses to information requests issued by the Department and Attorney General.

(3) incorporate a timely refund of excess ADIT, and (4) address any other related adjustment necessitated by the Act, including adjustments to reconciling mechanisms. D.P.U. 18-15, at 5.

B. Department Authority to Order Rate Adjustments

Several of the Affected Companies object to the premise of adjusting rates based on a single cost factor without a full consideration (or adjustment) of all other components of the cost of service, or considering the impact of the adjustment on the company's return on equity ("ROE") (see, e.g., Exhs. DPU-CMA-1-1, at 1; NG-1, at 8-9; AG-MWC-1-3; Unitil-DLC-1, at 4-5 (electric); Unitil-DLC-1, at 4-5 (gas)). In addition, certain Affected Companies argue that the Department must consider the actual amount of taxes paid or their earnings, as measured by comparing the actual and the allowed ROE, before implementing any rate changes or the return of tax savings related to the Act (see, e.g., Exhs. AG-ASW-1-2; AG-PHW-1-2; DPU-CMA-1-1, at 1; NG-1, at 8-9; AG-MWC-1-3; Unitil-DLC-1, at 4-5 (electric); Unitil-DLC-1, at 4-5 (gas)).

Further, several of the Affected Companies argue that the Department's investigation and directives in the instant proceeding implicate the prohibition against retroactive ratemaking (Exhs. LU-JMS-1, at 8-11; NG-1, at 8-10; ES-DPH-1, at 27-33). In particular, Liberty Utilities, NSTAR Electric, and NSTAR Gas assert that the Department should take into account whether a utility is earning a fair rate of return before directing any refund to ratepayers for tax savings realized between the effective date of the Act (i.e., January 1, 2018) and the date when new prospective base rates go into effect (i.e., July 1, 2018 or, for

companies with pending rate cases, the effective date of new rates) (Exhs. LU-JMS-1, at 9-10; ES-DPH-1, at 32-38).<sup>12</sup> These companies claim that, otherwise, a directive to refund prior tax savings to ratepayers would constitute retroactive ratemaking (Exhs. LU-JMS-1, at 9-10; ES-DPH-1, at 33). National Grid (Electric) and National Grid (Gas) argue that the Department's directive to change the tax rate and hold all elements of a company's last rate case revenue requirement constant may result in rates that are unjust and confiscatory, and they claim that setting rates on the basis of an adjustment, not provided in advance of a previously determined revenue requirement violates the prohibition against retroactive ratemaking (Exh. NG-1, at 8-10).

Notwithstanding the aforementioned arguments, Liberty Utilities, National Grid (Electric), National Grid (Gas), NSTAR Electric, NSTAR Gas, Unitil (Gas), and Unitil (Electric) each provided different proposals in response to the Department's directives in D.P.U. 18-15. These proposals, as well as those of the other Affected Companies, are summarized below.

C. Rate Adjustment and Refund of Tax Savings

1. Agawam Springs and Pinehills Water

Agawam Springs and Pinehills Water each claim that they have had no taxable income from the inception of their respective operations (Agawam Springs Response at 1; Pinehills Water Response at 1; Exhs. AG-ASW-1-2; AG-PWC-1-2). In particular, Agawam Springs

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<sup>12</sup> According to Liberty Utilities, a just and reasonable rate is one that affords a utility the opportunity to earn a fair rate of return (Exh. LU-JMS-1, at 9-10).

and Pinehills Water claim that they have not paid any federal taxes and will not be required to pay such taxes for the foreseeable future, at least until each company has made all required payments to the affiliates from which they lease their respective distribution assets (Agawam Springs Response at 1; Pinehills Water Response at 1; Exhs. AG-ASW-1-1; AG-ASW-1-2; AG-PWC-1-1; AG-PWC-1-2). Further, Agawam Springs and Pinehills Water each claim that their current rates do not cover their respective costs of service by a “significant” margin (Agawam Springs Response at 1; Pinehills Water Response at 1; Exhs. AG-ASW-1-1; AG-ASW-1-2; AG-PWC-1-1; AG-PWC-1-2). For these reasons, Agawam Springs and Pinehills Water assert that there are no current or future tax savings to return to customers and no adjustments to their respective rates are warranted (Agawam Springs Response at 1; Pinehills Water Response at 1; Exhs. DPU-ASW-1-1; DPU-PWC-1-1). Finally, Agawam Springs and Pinehills Water maintain that if their earnings improve to the point that they start paying taxes, and they are also earning at or above their respective allowed ROEs, they will flow back to ratepayers any tax savings (Exhs. AG-ASW-1-3; AG-PWC-1-3).

2. Aquarion Water

Aquarion Water has a pending rate case that has been docketed as D.P.U. 17-90. Aquarion Water maintains that it has reduced its proposed revenue requirement in D.P.U. 17-90 by \$152,000 to account for the lower federal corporate income tax rate



(Exh. AWC-TMD-1 (Supp.) at 14 (D.P.U. 17-90)).<sup>13</sup> Aquarion Water proposes to implement this reduction on November 1, 2018, the effective date of any new base distribution rates approved in D.P.U. 17-90 (Exh. AWC-TMD-1 (Supp.) at 14 (D.P.U. 17-90)).

Aquarion Water argues that no earlier rate adjustment or refund to customers as a result of the Act is warranted because it claims that the company's current rates do not reflect a federal tax rate above 21 percent (Exhs. AG-AWC-1-1; DPU-AWC-1-1; DPU-AWC-3-1). In particular, Aquarion Water maintains that in 2013, it adopted the tangible property regulations ("TPR") applicable to water utilities, which allowed it to deduct portions of its capital budget from 2007 through 2013 for tax purposes (Exhs. AG-AWC-1-1; DPU-AWC-1-1; AWC-TMD-1 (Supp.) at 12-13 (D.P.U. 17-90)).<sup>14</sup> Aquarion Water claims that, as a result of the TPR, its projected effective tax rate for 2018 will be "essentially zero" and, therefore, no adjustment to rates prior to November 1, 2018, or refund to ratepayers of taxes savings is warranted (Exhs. AG-AWC-1-1; DPU-AWC-1-1; AWC-TMD-1 (Supp.) at 14-15 (D.P.U. 17-90)).

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<sup>13</sup> Pursuant to 220 CMR 1.10(3), the Department incorporates by reference the supplemental testimony and supporting exhibits of Troy M. Dixon filed in D.P.U. 17-90.

<sup>14</sup> Aquarion Water states that its adoption of the TPR produced tax refunds that the company returned to customers in the form of a \$400,000 credit, resulting in three percent rate reduction for calendar-year 2015 (Exhs. AG-AWC-1-1, citing Aquarion Water Company, D.P.U. 14-58 (2014)).

### 3. Bay State

Bay State has a pending rate case that has been docketed as D.P.U. 18-45. Bay State maintains that it has incorporated the current corporate income tax rate in its proposed base distribution rates in D.P.U. 18-45 (see Exh. CMA/TLS-1, at 22 (D.P.U. 18-45)).<sup>15</sup> Bay State submits that the reduction in the federal corporate income tax rate will result in a \$17.4 million decrease to its revenue requirement (Exh. CMA/TLS-1, at 22 (D.P.U. 18-45)). Bay State proposes to implement this reduction on March 1, 2019, the effective date of any new base distribution rates approved in D.P.U. 18-45 (Exh. CMA/TLS-1, at 22 (D.P.U. 18-45)).

Further, Bay State proposes to refund ratepayers approximately \$12.55 million in tax savings from the period January 1, 2018 through February 28, 2019, with interest at the prime rate (Exhs. DPU-CMA-1-1, at 2; CMA/MJB-3, Sch. MJB 3-5 at 3 (D.P.U. 18-45)).<sup>16,17</sup> Bay State proposes to return the majority of these amounts through a distribution rate credit that would be in effect from March 1, 2019 through April 30, 2020, with the remaining \$247,000, associated with the company's local production and storage

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<sup>15</sup> Pursuant to 220 CMR 1.10(3), the Department incorporates by reference the testimony and supporting exhibits of Tamaleh L. Shaeffer filed in D.P.U. 18-45.

<sup>16</sup> Bay State asserts that its proposal to refund tax savings to customers, with interest, for the period starting January 1, 2018, is contingent upon Department approval of its proposal to defer any Act-related rate changes until March 1, 2019 (Exh. DPU-CMA-1-1). Bay State asserts that if the Department orders a reduction in rates as of July 1, 2018, the company will retract its proposal to refund tax savings to customers for periods prior to that date (Exh. DPU-CMA-1-1).

<sup>17</sup> Bay State applies a carrying charge of 4.5 percent, which was the prime rate in January 2018 (Exh. CMA/MJB-3, Sch. 3-5, at 2 (D.P.U. 18-45)).

function, to be refunded through the company's 2019 off-peak cost of gas adjustment clause ("CGAC") filing (see Exh. CMA/MJB-3, at 17-18 (D.P.U. 18-45)).<sup>18</sup>

4. Berkshire Gas

Berkshire Gas has a pending rate case that has been docketed as D.P.U. 18-40. Berkshire Gas states that it still is determining the impacts of the Act, but maintains that its proposed revenue requirement in D.P.U. 18-40 reflects the lower federal corporate income tax rate as of January 1, 2018, as well as the refund of any tax savings (Exh. BGC-DSD/AD-1, at 31 (D.P.U. 18-40)).<sup>19</sup> In this regard, Berkshire Gas estimates that the difference in the federal corporate income tax recovered in current rates and the new 21 percent corporate income tax rate for the 15-month period between January 1, 2018 and April 1, 2019, the effective date of any new rates in D.P.U. 18-40, is approximately \$975,500, including a tax gross-up (Exh. BGC-DSD/AD-1, at 33 (D.P.U. 18-40)). Berkshire Gas proposes to book the reduced tax expense as a regulatory liability during 2018 and for the first three months of 2019, and then to return this amount to customers, with carrying costs, over a five-year amortization period that commences April 1, 2019 (Berkshire Gas Response at 1; BGC-DSD/AD-1, at 31, 33-34 (D.P.U. 18-40)).

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<sup>18</sup> Pursuant to 220 CMR 1.10(3), the Department incorporates by reference the testimony and supporting exhibits of Melissa J. Bell filed in D.P.U. 18-45.

<sup>19</sup> Pursuant to 220 CMR 1.10(3), the Department incorporates by reference the testimony and supporting exhibits of Daniel S. Dane and Adam Danner filed in D.P.U. 18-40.

5. Blackstone Gas

Blackstone Gas states that its current base distribution rates include an embedded federal corporate income tax rate of 21.53 percent and that if it were required to adjust its rates to incorporate a lower federal tax rate of 21 percent, the company's taxable income would be reduced by only \$1,325 and its total income tax would be reduced by only \$569 (Exhs. Blackstone-MW-1, at 12-13; AG-Blackstone-1-2).<sup>20</sup> Blackstone Gas asserts that this amount translates to less than \$1.00 per ratepayer per year, which the company argues is de minimis (Exhs. Blackstone-MW-1, at 13; AG-Blackstone-1-2). Further, Blackstone Gas argues that the costs of implementing new rates as a result of the Act would exceed any amounts returned to ratepayers (Exhs. Blackstone-MW-1, at 13). For these reasons, Blackstone Gas asserts that good cause exists for the Department to grant it a waiver from the directives in D.P.U. 18-15 to adjust rates as a result of the Act and refund any excess tax amounts to ratepayers (Exhs. Blackstone-MW-1, at 13-15; AG-Blackstone-1-2).

6. Liberty Utilities

Liberty Utilities proposes to reduce its current base distribution rates effective July 1, 2018, as a result of the Act (Exh. LU-JMS-1, at 5-6). Specifically, Liberty Utilities proposes to reduce its revenue requirement by \$929,098 (Exh. LU-JMS-1, at 5;

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<sup>20</sup> In addition, Blackstone Gas claims that it changed its corporate structure from a C corporation to an S corporation effective January 1, 2012, and, as a result, it pays income taxes based on a personal income tax schedule and not a corporate income tax schedule (Exhs. Blackstone-MW-1, at 15-17; AG-Blackstone-1-5). Accordingly, Blackstone Gas argues that it does not receive the benefit of the lower federal corporate tax rate (Exhs. Blackstone-MW-1, at 15-17; AG-Blackstone-1-5).

DPU-LU-1-1; Attachment AG-LU-1-2 (corrected)). Liberty Utilities proposes that \$48,147 of the reduction, associated with the company's local production and storage function, be billed as a component of the CGAC (Exh. LU-JMS-1, at 6). Liberty Utilities proposes to allocate the remaining \$880,951 to the customer charge and volumetric base rates for the various customer classes (Exh. LU-JMS-1, at 6).

Liberty Utilities proposes to refund any tax savings for the period January 1, 2018, through June 30, 2018, only if the company's earnings exceed its Department-approved ROE during 2018 (Exh. LU-JMS-1, at 11-15). Where this condition is met, Liberty Utilities proposes that the Department would determine the appropriate amount owed to ratepayers in a subsequent proceeding (Exh. LU-JMS-1, at 14).

#### 7. Milford Water

Milford Water has a pending rate case that has been docketed as D.P.U. 17-107. Milford Water maintains that it has reduced its proposed revenue requirement in D.P.U. 17-107 by approximately \$332,500 to account for the lower federal corporate income tax rate (Milford Water Brief at 22 (D.P.U. 17-108); Exh. DPU-3-37, Att. (b) at 9 (D.P.U. 17-108)).<sup>21</sup> Milford Water proposes to implement this reduction on September 1, 2018, the effective date of any new base distribution rates approved in D.P.U. 17-107 (see Exh. DPU-MWC-3-1).

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<sup>21</sup> Pursuant to 220 CMR 1.10(3), the Department incorporates by reference Milford Water's response (including attachments) to Information Request DPU 3-37 filed in D.P.U. 17-107.

Milford Water argues that any further reduction in rates is not “appropriate, necessary or advisable” because the company claims it is neither earning its allowed return nor paying any federal corporate income taxes at this time (Exh. DPU-MWC-3-1). Further, Milford Water claims that a “forced reduction in rates” will violate the Department’s rate principles of efficiency and earnings stability because the company’s rates will not reflect its cost of providing service (Exh. DPU-MWC-3-1). Milford Water also contends that a reduction in rates on July 1, 2018, would violate the Department’s goal of continuity because the reduction would result in a short-term decrease in rates followed by an increase in rates when new rates are established in D.P.U. 17-107 (Exh. DPU-MWC-3-1).

8. National Grid (Electric)

National Grid (Electric) argues that the impact of the Act on its rates should be determined in its next rate case, which it plans to file by the end of 2018 (Exh. NG-1, at 10). Nonetheless, if required by the Department, National Grid (Electric) would apply the current corporate income tax rate to reduce its base distribution rates effective July 1, 2018 (Exh. NG-1, at 10-11). National Grid (Electric) states, however, that if it is allowed to defer the determination of the amount of tax savings to be returned to customers until its next distribution rate proceeding, it will not file a rate case in 2018 (Exh. NG-1, at 10).

With regard to a July 1, 2018, rate change, National Grid (Electric) calculates a revenue requirement reduction of \$27,879,238 (Exhs. NG-1, at 11; NG-2, at 1; Attachment AG-NG-1-1-3, at 1; Attachment DPU-NG-1-1-1, at 1). National Grid (Electric) proposes to allocate this reduction to its rate classes based upon its Department-approved distribution

revenue allocator (Exh. NG-1, at 11). With limited exceptions, National Grid (Electric) proposes to divide the allocated decrease by its kilowatt-hour (“kWh”) deliveries for calendar-year 2017 (Exh. NG-1, at 11-12).<sup>22</sup>

National Grid (Electric) proposes to return any tax savings to ratepayers for the period January through June 2018 only if the company’s actual ROE exceeds its allowed ROE for 2018 (Exh. NG-1, at 18-19). To this end, National Grid (Electric) proposes to submit a calendar-year 2018 earnings report on May 1, 2019 (Exh. NG-1, at 18-19). National Grid (Electric) proposes to return any tax savings to ratepayers as an earnings sharing adjustment through its current capital investment recovery provision tariff, M.D.P.U. No. 1303 (Exh. NG-1, at 19-20).

#### 9. National Grid (Gas)

National Grid (Gas) has a pending rate case that has been docketed as D.P.U. 17-170. National Grid (Gas) maintains that current corporate income tax rates will be used to establish its new rates in D.P.U. 17-170, for effect October 1, 2018 (see Exh. NG-RRP-Supplemental-1, at 6 (D.P.U. 17-170)).<sup>23</sup> In this regard, National Grid (Gas) asserts that it has reduced its proposed revised revenue requirement in D.P.U. 17-170

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<sup>22</sup> For the company-owned street-lighting rate classes, National Grid (Electric) proposes to design per-lumen and per-pole reductions based on company-owned street-lighting inventory as of December 2017 (Exh. NG-1, at 12).

<sup>23</sup> Pursuant to 220 CMR 1.10(3), the Department incorporates by reference the testimony of Daniel S. Dane, Pamela D. Bushmich and Peter E. Dawes, filed in D.P.U. 17-170.

by \$29.3 million for Boston Gas Company and \$7.0 million for Colonial Gas Company (Exh. NG-RRP-Supplemental-1, at 6 (D.P.U. 17-170)).

National Grid (Gas) proposes to return any tax savings to ratepayers for the period January 1, 2018 through September 30, 2018 only if it is determined that its current rates have yielded returns in excess of its authorized ROE (Exh. NG-1, at 19). To this end, National Grid (Gas) proposes to submit a calendar-year 2018 earnings report on May 1, 2019 (Exh. NG-1, at 19). National Grid (Gas) proposes to return any tax savings as credit through its revenue decoupling mechanism (Exh. NG-1, at 20).

#### 10. NSTAR Electric

NSTAR Electric states that, as of February 1, 2018, its base distribution rates established in NSTAR Electric Company and Western Massachusetts Electric Company, D.P.U. 17-05 (2017), incorporate the reduced federal corporate income tax rate established in the Act (Exhs. ES-DPH-1, at 10; AG-NSTAR-1-1, at 1-2). Therefore, NSTAR Electric asserts that no further adjustment to its distribution rates is required (Exhs. ES-DPH-1, at 10).

Further, NSTAR Electric argues that there is no basis to refund to ratepayers any tax savings for January 2018 (Exh. ES-DPH-1, at 34). NSTAR Electric argues that the Department's decision to allow a distribution rate increase in D.P.U. 17-05 represents a finding that the rates in effect January 2018 were not sufficient to collect its costs or to produce a fair and reasonable return on its investment (Exh. ES-DPH-1, at 33-34). As it contends that rates for this period were no longer just and reasonable, NSTAR Electric



argues that a customer refund of a single expense category for January 2018 is not warranted (Exh. ES-DPH-1, at 34).

11. NSTAR Gas

NSTAR Gas proposes to incorporate the current corporate income tax rate in its base distribution rates beginning on July 1, 2018 (Exh. ES-DPH-1, at 10). Specifically, NSTAR Gas calculates a proposed revenue requirement reduction of \$5,451,189 million, which includes proposed cost of service adjustments that are the subject of a pending motion for reconsideration filed in NSTAR Gas Company, D.P.U. 14-150 (2015) (Exh. ES-DPH-1, at 11-27; ES-DPH-2; AG-NSTAR-1-2). NSTAR Gas calculated an alternative reduction of \$7,307,563, exclusive of the aforementioned cost of service adjustments (Exhs. AG-NSTAR-1-2). NSTAR Gas proposes to revise its base distribution rates, effective July 1, 2018, by lowering demand and energy components of rates to meet the revised revenue requirement (Exhs. ES-DPH-1, at 11).

NSTAR Gas proposes to return to ratepayers any tax savings for the period January through June 2018, only if the company has earned at or above its approved ROE for calendar-year 2018 (based on a review its annual return to be filed on March 31, 2019) (Exh. ES-DPH-1, at 36-38). NSTAR Gas did not propose a specific mechanism to refund any such tax savings (Exh. ES-DPH-1, at 37).

12. Unitil

To incorporate the new corporate tax rate in base rates as of July 1, 2018, Unitil (Electric) proposes to reduce its annual revenue requirement by \$799,454

(Exhs. Unitil-DLC-1, at 4 (electric); Unitil-DLC-2, at 1 (electric)). Further, Unitil (Electric) proposes to return to ratepayers \$404,376 in excess taxes it will have collected from January 1, 2018 through June 30, 2018 as a result of the Act (Exhs. Unitil-DLC-1, at 5 (electric); Unitil-DLC-3 (electric)).

Unitil (Electric) proposes to implement both its revenue requirement reduction and return of excess taxes through its revenue decoupling adjustment clause (“RDAC”) (Exh. Unitil-DLC-1, at 5 (electric)). Finally, Unitil (Electric) proposes to reduce its target revenues in the RDAC by the annual distribution revenue decrease of \$799,404, effective July 1, 2018 (Exh. Unitil-DLC-1, at 5-6 (electric)).

Similarly, in order to incorporate the new lower corporate income tax rate in base rates as of July 1, 2018, Unitil (Gas) proposes to reduce its annual revenue requirement by \$799,211 (Exhs. Unitil-DLC-1, at 4 (gas); Unitil-DLC-2, at 1 (gas)).<sup>24</sup> Further, Unitil (Gas) proposes to return to ratepayers \$526,572 in excess taxes it will have collected from January 1, 2018 through June 30, 2018, as a result of the Act (Exh. Unitil-DLC-1, at 5 (gas); Unitil-DLC-3 (gas)).<sup>25</sup>

Unitil (Gas) proposes implement both its revenue requirement reduction and return of excess taxes through its RDAC (Exh. Unitil-DLC-1, at 6 (gas)). Finally, Unitil (Gas)

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<sup>24</sup> Unitil (Gas) proposes to allocate \$771,741 of this amount to distribution and the remaining \$27,470 to gas production (Exh. Unitil-DLC-1, at 4 (gas)).

<sup>25</sup> Unitil (Gas) proposes to allocate \$508,056 of this amount to distribution and the remaining \$18,516 to the cost of gas (Exh. Unitil-DLC-1, at 5 (gas)).

proposes to reduce its target revenues in the RDAC by the annual distribution revenue decrease of \$771,741, effective July 1, 2018 (Exh. Unitil-DLC-1, at 6 (gas)).

D. Refund of Excess ADIT

Agawam Springs and Pinehills Water claim that they have no excess ADIT (Pinehills Response at 1; Exhs. AG-ASW-1-4; AG-ASW-1-5; AG-PHW-1-4; AG-PHW-1-5). Aquarion Water proposes to amortize excess ADIT of \$2.84 million over 26.24 years (Exhs. AG-AWC-1-4; AG-AWC-1-5). Instead of refunding these amounts to ratepayers, Aquarion Water proposes to use these amounts to fund a proposed water reliability improvement mechanism, currently under consideration in D.P.U. 17-90, starting September 1, 2019 (Exhs. AG-AWC-1-5; AWC-TMD-1 (Supp.) at 14; (D.P.U. 17-90); Exh. AWC-TMD-2, at 2 (D.P.U. 17-90)).<sup>26</sup> See also, Aquarion Water Company, D.P.U. 17-90, Interlocutory Order at 17-18 (March 9, 2018).

As noted above, Blackstone Gas has requested a waiver from the Department's directives in D.P.U. 18-15, including any requirement to return excess ADIT (Exhs. Blackstone-MW-1, at 3, 13-18; AG-Blackstone-1-2).<sup>27</sup> Liberty Utilities proposes to return to ratepayers approximately \$2.3 million in excess ADIT over a yet to be determined

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<sup>26</sup> Aquarion Water states that this proposed mechanism is intended to recover the cost of incremental capital investment between rate cases and allow for acceleration of the company's mains replacement plan (AWC-TMD-1 (Supp.) at 14 (D.P.U. 17-90)).

<sup>27</sup> Blackstone Gas asserts that it has not yet filed its annual return for 2017 and, therefore, it could not provide its ADIT balance as of December 31, 2017 (Exh. AG-Blackstone-1-4). However, Blackstone Gas asserts that it had no ADIT as of December 31, 2016 (Exh. AG-Blackstone-1-4).

amortization period, through the establishment of a new credit factor in its local distribution adjustment clause (“LDAC”) (to take effect on November 1, 2018, when the company changes the remaining components of its LDAC) (Exhs. LU-JMS-1, at 16-17; AG-LU-1-4). Liberty Utilities states that it still is considering the appropriate amortization method so as to comply with Internal Revenue Service (“IRS”) rules (Exh. LU-JMS-1, at 16-17).

National Grid (Electric) proposes to return excess ADIT through its revenue decoupling mechanism over amortization periods that range from 21 to 50 years (Exh. NG-1, at 16). NSTAR Electric proposes to return excess ADIT through its performance based ratemaking (“PBR”) mechanism, starting January 1, 2019, over amortization periods that range from approximately 26 to 30 years (Exhs. ES-DPH-1, at 43; ES-DPH-3, at 2; AG-NSTAR-1-5). NSTAR Gas proposes amortize excess ADIT of \$96.3 million over 41.5 years (Exhs. ES-DPH-1, at 40; ES-DPH-3; AG-NSTAR-1-4; AG-NSTAR-1-5). Instead of refunding these amounts to ratepayers, NSTAR Gas proposes to use these amounts to fund a program to make natural gas service available to its “unserved customer population” (Exh. ES-DPH-1, at 45). NSTAR Gas has not yet filed the details of this proposed program (Exh. ES-DPH-1, at 46). Unitil (Electric) and Unitil (Gas) propose to address the return to ratepayers of excess ADIT in their next base rate proceedings (Exhs. Unitil-DLC-1, at 8 (electric); Unitil-DLC-1, at 8 (gas)).

Finally, each of the remaining Affected Companies with pending G.L. c. 164, § 94 rate cases (i.e., Bay State Gas, Berkshire Gas, Milford Water, and National Grid (Gas)) propose to refund to ratepayers excess ADIT through an annual amortization beginning when

their respective new rates take effect (Exhs. AG-CMA-1-5, at 4; CMA/PWF-1, at 4-7 (D.P.U. 18-45);<sup>28</sup> AG-BGC-1-4; AG-BGC-1-5; AG-MWC-1-4; AG-NG-1-4; AG-NG-1-5 & Atts. 2, 3; NG-RRP-Supplemental-1, at 9, 11 (D.P.U. 17-170)).

E. Impact of the Act on Reconciling Mechanisms

Agawam Springs and Pinehills Water report that they have no reconciling mechanisms (AG-ASW-1-6; AG-PHW-1-6). As noted above, Blackstone Gas seeks a waiver from the Department's directives in D.P.U. 18-15 (Exhs. Blackstone-MW-1, at 3, 13-18; AG-Blackstone-1-2). Nevertheless, Blackstone Gas states that all of its reconciling mechanisms are included as part of its peak and off-peak gas adjustment filings (i.e., surcharges related to the residential assistance adjustment factor ("RAAF") and energy efficiency program cost recovery ("EES")) (Exh. AG-Blackstone-1-6). According to Blackstone Gas, these reconciling mechanisms are not adjusted by a rate of return carrying charge determined by the income tax rate but, instead, are adjusted by an interest factor for under or over collections to the company or ratepayers, as appropriate (Exh. AG-Blackstone-1-6).

Milford Water claims that it has only one reconciling mechanism but, because it has had no reconciliations within the past few years, there is no impact resulting from the reduction in the federal corporate income tax rate (Exh. AG-MWC-1-6).

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<sup>28</sup> Pursuant to 220 CMR 1.10(3), the Department incorporates by reference the testimony of Panpilas W. Fischer, filed in D.P.U. 18-45.

Finally, Bay State, Berkshire Gas, Liberty Utilities, the National Grid (Electric), National Grid (Gas), NSTAR Electric, NSTAR Gas, Unitil (Electric), and Unitil (Gas) each have a number of reconciling mechanisms. Each of these Affected Companies identified, to varying extents, the impact to these mechanisms from the reduction in the federal corporate income tax rate (see, e.g., Exhs. AG-CMA-1-6; AG-BGC-1-6; LU-JMS-1, at 19-22; AG-LU-1-6; NG-1, at 24-25; AG-NG-1-6; ES-DPH-1, at 46-48; AG-NSTAR-1-6; AG-Unitil-1-6 (electric); AG-Unitil-1-6 (gas)).

#### IV. SUMMARY OF COMMENTS

##### A. Attorney General

The Attorney General urges the Department to implement an “across-the-board” rate reduction in the normalized level of federal income taxes, effective July 1, 2018, to account for the reduction in the federal income tax rate (Attorney General Comments at 2, citing Investigation into Effect of the Reduction in Federal Income Tax Rates on Utility Rates as a Result of the Tax Reform Act of 1986, D.P.U. 87-21 (1987)). The Attorney General argues that any delay in such rate reductions will perpetuate rates that currently are neither just nor reasonable and will harm the Commonwealth’s ratepayers by millions of dollars (Attorney General Comments at 2, citing G.L. c. 164, § 94).

##### B. Walmart

Walmart urges the Department to render a decision that ensures that ratepayers receive the entire benefit of the federal corporate income tax rate reduction back to the Act’s effective date of January 1, 2018 (Walmart Comments at 2). Walmart argues that the

ratemaking treatment ordered by the Department should be simple and consistent across all of the Affected Companies (Walmart Comments at 2).

Walmart offers additional comments specific to the National Grid (Electric) and NSTAR Electric proposals. Walmart argues that the Department should reject the National Grid (Electric) proposal to defer and condition on earnings the refund of tax savings associated with the period of January 1, 2018 through June 30, 2018 (Walmart Comments at 3). Instead, Walmart asserts that the Department should direct National Grid (Electric) to immediately return to ratepayers all tax savings from this period (Walmart Comments at 3). Walmart contends that the arguments made by National Grid (Electric) regarding retroactive ratemaking are misplaced, as an exception exists with respect to unforeseen and extraordinary increases or decreases in a utility's expenses (Walmart Comments at 3-4). In this regard, Walmart argues that the change in the federal income tax rate constitutes such an unforeseen and extraordinary decrease in the revenue requirement of National Grid (Electric) (Walmart Comments at 4).

Additionally, Walmart argues that the Department should reject the proposal of National Grid (Electric) to return excess ADIT through the revenue decoupling mechanism (Walmart Comment at 4). According to Walmart, this method may allow National Grid (Electric) and the other Affected Companies to retain some or all of the excess ADIT (Walmart Comments at 4). Instead, Walmart asserts that these funds should be returned to ratepayers through a direct credit or flow-back (Walmart Comments at 4).

Regarding NSTAR Electric, Walmart urges the Department to reject the company's proposal to retain the tax savings associated with January 2018 and, instead, direct NSTAR Electric to return these funds to ratepayers (Walmart Comments at 5). Further, Walmart argues that the Department should reject NSTAR Electric's proposal to return excess ADIT through its PBR mechanism. According to Walmart, this method may allow NSTAR Electric to retain some or all of the excess ADIT and increase its ROE beyond the approved percentage (Walmart Comments at 5). Instead, Walmart asserts that excess ADIT should be returned to ratepayers through a direct credit or flow-back (Walmart Comments at 5).

## V. ANALYSIS AND FINDINGS

### A. Introduction

The recent changes in the federal tax code as a result of the Act require the Department to consider its statutory responsibilities pursuant to G.L. c. 159, c. 164 and c. 165 to ensure that rates are just and reasonable. The Act significantly affects many Massachusetts regulated utilities and has important ratemaking implications. The Department opened this investigation to adjust rates promptly in order to ensure that ratepayers receive the immediate benefit of the significant decrease in the federal corporate income tax rate. D.P.U. 18-15, at 1-2, 4; see also D.P.U. 87-21, at 1-2 (1987).

In this Order, the Department will focus on the implementation of adjustments to base distribution rates for effect July 1, 2018. D.P.U. 18-15, at 5. For those Affected Companies with pending rate cases pursuant to G.L. c. 164, § 94, the Department will address whether it is appropriate to delay the implementation of Act-related rate changes and



tax savings refunds where it is shown that ratepayers will not be harmed and that such delay is otherwise in the public interest. D.P.U. 18-15, at 6 n.9.

In the second phase of this investigation, for those Affected Companies that have not already agreed to return these amounts to ratepayers, the Department will address the refund of tax savings that have accrued between January 1, 2018 and June 30, 2018, including any arguments that were raised regarding the issue of retroactive ratemaking. Finally, the Department will also address both the excess recovery in rates of ADIT related to the Act and the effect of the Act on the various reconciling mechanisms, in phase two of the investigation.

B. Department Authority to Order Rate Adjustments

The Department sets a company's rates to reflect a representative level of tax expense. In general, this tax expense is calculated by applying the effective corporate tax rate to the allowed return on rate base. D.P.U. 18-15, at 1, citing Fitchburg Gas and Electric Light Company, D.P.U. 1270/1414, at 45-46 (1983). With certain exceptions discussed below, the Affected Companies currently operate with rates based on a tax expense calculated with a federal corporate tax rate significantly higher than the 21 percent tax rate in effect since January 1, 2018. In addition, in previous years, many of the Affected Companies have accrued ADIT at a tax rate that is significantly higher than the 21 percent rate at which these companies now will pay these taxes. To address these issues, the Department found that it is appropriate to promptly adjust rates in order to ensure that ratepayers receive the immediate benefit of the significant decrease in the federal corporate income tax rate. D.P.U. 18-15,

at 1-2, 4. To this end, the Department directed each Affected Company, among other things, to submit a proposal to reduce its rates through the establishment of a revised cost of service incorporating the lower federal corporate income tax rate as of January 1, 2018, holding all other components used to design rates constant. D.P.U. 18-15, at 5.

Several Affected Companies object to the concept of adjusting rates based on a single cost factor, such as the federal corporate income tax rate, without also adjusting other expenses that may have changed since the companies' rates were established by the Department, or considering the impact of the adjustment on the company's ROE (see, e.g., Exhs. DPU-CMA-1-1; NG-1, at 8-9; AG-MWC-1-3; Unitil-DLC-1, at 4-5 (electric); Unitil-DLC-1, at 4-5 (gas)). In addition, certain Affected Companies argue that the Department must consider the actual amount of taxes paid or their earnings, as measured by comparing the actual and the allowed ROE, before implementing any rate changes or the return of tax savings related to the Act (see, e.g., Exhs. AG-ASW-1-2; AG-PHW-1-2; DPU-CMA-1-1, at 1; NG-1, at 8-9; AG-MWC-1-3; Unitil-DLC-1, at 4-5 (electric); Unitil-DLC-1, at 4-5 (gas)). The Department considered and rejected these arguments already, when the federal corporate income tax rate last decreased, and we are not persuaded that a different outcome is appropriate here. Investigation into Effect of the Reduction in Federal Income Tax Rates on Utility Rates as a Result of the Tax Reform Act of 1986, D.P.U. 87-21-A at 10-11 (1987).

The term "single-issue rate case" is generally understood to mean the investigation of a petition for base rate relief that concerns only one major issue. Provision of Default

Service, D.T.E. 02-40-B at 18 (2003), citing Cambridge Electric Light Company,

D.P.U. 490 at 2 (1982). While the Department is generally indisposed to single-issue rate cases, it has allowed single-issue rate adjustments in limited circumstances, including, as mentioned above, in response to a change in the federal corporate income tax rate.

D.P.U. 87-21-A at 7-12; see also Capital Recovery, D.P.U. 859, at 6 (1982) (adjustment of base rates to recover depreciation costs and expenses); D.P.U. 490, at 2 (adjustment of base rates to recover increased property tax expense). The judgment of the Department to make a single-issue rate adjustment must be exercised on a case-by-case basis in light of the exigency of the circumstances, weighing the exigency of the problem against the importance of potential relief. See Attorney General v. Department of Public Utilities, 453 Mass. 191, 201 (2009) (affirming the Department's position that single-issue rate cases are appropriate where: (1) the increase is dramatic and of such magnitude as to require the extraordinary treatment of a limited rate proceeding; and (2) a broad investigation entailed in a general base rate proceeding would burden ratepayers with rate case expense in excess of any savings that might be attained by examining additional issues).

As discussed further below, with the exception of Blackstone Gas, the Department finds that that the change in the federal corporate income tax rate is a significant, known and measurable reduction in the Affected Companies' costs of service, sufficient to rebut the presumption that rates as of January 1, 2018, are just and reasonable. D.P.U. 87-21-A at 7-8. If the cost of service reductions related to the Act are not reflected in rates to consumers, the Affected Companies would reap an inappropriate revenue windfall.

D.P.U. 87-21-A at 8.<sup>29</sup> For these reasons, the Department finds that there is an administrative imperative to adjust rates in a timely manner.

In addition, the Department finds that the reduction in the federal corporate income tax rate to 21 percent is a generic change in the Affected Companies' costs of providing service to ratepayers and its effect can be calculated in a relatively simple, uniform way.

D.P.U. 87-21-A at 7. We find a more broad-based rate proceeding would burden ratepayers with additional expense that potentially exceeds any savings resulting from the Act.

Therefore, based on all of the foregoing considerations, the Department exercises its discretion to investigate and, where appropriate, require single-issue rate adjustments and tax savings refunds to account for change in the federal corporate income tax rate from 35 percent to 21 percent as of January 1, 2018.

C. Affected Companies' Rate Adjustments

1. Agawam Springs and Pinehills Water

Agawam Springs and Pinehills Water each argue that because it has paid no federal income taxes, it is not obligated to adjust rates as a result of the Act (Agawam Springs Response at 1; Pinehills Response at 1; Exhs. AG-ASW-1-2; DPU-ASW-1-1; AG-PWC-1-2; DPU-PWC-1-1). The Department disagrees. Regardless of the amount of federal income taxes paid by each company, both Agawam Springs and Pinehills Water are collecting rates that include an embedded federal income tax expense based on the previous tax rate of

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<sup>29</sup> This windfall is not a result of the Affected Companies' actions and, therefore, would not produce efficiency incentives.

34 percent (Exhs. DPU-ASW-3-1; DPU-PHW-3-1). See also Agawam Springs Water Company, D.P.U. 13-163, at 58 (2013); Pinehills Water Company, D.T.E. 01-42, at 40 (2001). The fact that each company is paying no taxes only highlights that their current rates include an excessive level of income taxes.

Further, each company claims that current lease arrangements make it inappropriate to adjust rates as a result of the Act (Agawam Springs Response at 1; Pinehills Water Response at 1; Exhs. AG-ASW-1-1; AG-ASW-1-2; AG-PWC-1-1; AG-PWC-1-2).<sup>30</sup> Agawam Springs leases its distribution assets from an affiliate company with lease payments equal to the annual cost of depreciation plus a return on the assets. D.P.U. 13-163, at 22. Agawam Springs pays a portion of its lease payment based on available revenues, with any remaining balance deferred until such a time that Agawam Water is in a position to begin repayment. D.P.U. 13-163, at 22. Pinehills Water's lease operates in a similar manner, providing for basic rent component payments intended to recover depreciation and a return on assets owned by an affiliate company, with any difference between the basic rent component and actual rent deferred for future repayment. D.T.E. 01-42, at 8-9. For each company, the income tax expense built into its distribution rates was predicated on a fully built-out system and is unaffected by the level of lease expense that may be paid from year to year. D.P.U. 13-163, at 122-130; D.T.E 01-42, at 33-41. Therefore, the Department finds that Agawam Springs'

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<sup>30</sup> These lease arrangements are designed to facilitate the full build-out, over time, of the companies' distribution systems.

and Pinehills Water's lease arrangements are not relevant to determine whether rate adjustments are required as a result of the Act.

Consistent with our discussion in Section V.B above, the Department finds that the reduction in federal corporate income tax rate as a result of the Act constitutes a significant, known and measurable change in Agawam Springs' and Pinehills Water's costs of service. The Department further finds that this change in each company's cost of service rebuts the presumption that rates as of January 1, 2018, are just and reasonable. If the cost of service reduction is not reflected in rates to consumers, Agawam Springs and Pinehills Water would reap an inappropriate revenue windfall. D.P.U. 87-21-A at 8.

Consistent with our findings above, Agawam Springs and Pinehills Water shall each adjust rates effective July 1, 2018, to include the reduction in the federal corporate income tax rate. Neither Agawam Springs nor Pinehills Water adequately responded to the Department's information requests seeking the information required to make the appropriate rate adjustment (see, e.g., Exhs. DPU-ASW-3-1; DPU-PHW-3-1). Accordingly, the Department has developed the requisite adjustments.

As discussed above, the revenue requirements determined in Agawam Springs' and Pinehills Water's most recent rate cases were based on fully built-out systems. More specifically, Agawam Springs' revenue requirement was predicated on a fully built-out system of 1,175 customers with annual operating revenues of \$1,729,657. D.P.U. 13-163, at 3-8, 122. Agawam Springs currently has only 110 customers. Pinehills Water's revenue requirement likewise was predicated on fully-built out system of approximately 2,850

customers and \$2,122,668 in annual operating revenues. D.T.E. 01-42, at 2-5, 33. Pinehills Water currently has 2,161 customers. While Agawam Springs provided tax calculations based on full buildout, its calculated gross taxable income of \$887,964 incorrectly incorporates a 34 percent federal tax rate (see Exh. DPU-ASW-3-1, Att. (a) at 5).<sup>31</sup> Because the gross taxable income calculation is an integral component of the calculation of income taxes for ratemaking purposes, the gross taxable income must be revised to recognize the lower 21 percent federal tax rate.

With respect to Pinehills Water, the Department is unable to reconcile the company's calculated reduction of \$128,256 with the revenue requirement schedules attached to the Department's Order in D.T.E. 01-42. An examination of Pinehills Water's income tax calculations indicates that this company also incorporated a 34 percent income tax rate in the calculation of gross taxable income (Cf. Exh. DPU-PHW-3-1, Att. (a) at 5; D.T.E. 01-42, at 40).

To address these issues, the Department has adjusted the cost of service approved in each company's most recent rate case by incorporating the lower federal income tax rate of 21 percent in the gross taxable income calculation and holding constant all other components used to establish the revised revenue requirement and design rates. See D.P.U. 18-15, at 5. Based on these calculations, the Department finds that Agawam Springs's revenue

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<sup>31</sup> The inclusion of a 34 percent federal tax rate in the gross taxable income is apparent through comparison with the reported taxable income base of \$539,172, indicating an income tax gross-up factor of 1.6469, which is consistent with the use of a 34 percent federal income tax rate and an 8.0 percent state income tax rate.

requirement shall be reduced by \$146,120, or 8.45 percent, and Pinehills Water's revenue requirement shall be reduced by \$170,011, or 7.42 percent.<sup>32</sup> Agawam Springs and Pinehills Water shall implement equal percentage rate reductions across all fixed charges (e.g., customer charges, fire protection charges) and volumetric rates.

Within seven days of the date of this Order, Agawam Springs shall submit new schedules of rates and charges effective July 1, 2018, designed to decrease the company's annual water revenues by 8.45 percent from current revenues, and design all rates as set forth above. Similarly, within seven days of the date of this Order, Pinehills Water shall submit new schedules of rates and charges designed to decrease the company's annual water revenues by 7.42 percent from current revenues, and design all rates as set forth above. The Department will address the refund of any tax savings accrued from January 1, 2018 through June 30, 2018, as well as any excess ADIT, in phase two of this investigation. The companies shall continue to book these amounts as regulatory liabilities pending resolution of this investigation.

## 2. Aquarion Water

Aquarion Water has a pending rate case (i.e., D.P.U. 17-90). Aquarion Water maintains that it has reduced its proposed revenue requirement in D.P.U. 17-90 by \$152,000 to account for the lower federal corporate income tax rate as of November 1, 2018

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<sup>32</sup> Based on Agawam Springs' current operating revenues of \$270,691, the Department estimates that the resulting revenue decrease for this company is \$22,982. Based on Pinehills Water's current operating revenues of \$1,647,594, the Department estimates that the resulting revenue decrease for this company is \$122,251.



(Exh. AWC-TMD-1 (Supp.) at 14 (D.P.U. 17-90)). Aquarion Water further claims that its projected effective tax rate for 2018 will be “essentially zero” and, therefore, no adjustment to rates prior to November 1, 2018, or refund to ratepayers of taxes savings as a result of the Act is warranted (Exhs. AG-AWC-1-1; DPU-AWC-1-1; AWC-TMD-1 (Supp.) at 14-15 (D.P.U. 17-90)).

Regardless of Aquarion Water’s current federal income tax status, the record shows that the company’s rates include an embedded federal income tax expense based on the previous tax rate of 34 percent (Exhs. DPU-AWC-3-1). See also Aquarion Water Company of Massachusetts, D.P.U. 11-43-A at 15 (2012). While Aquarion emphasizes its credit of the TPR refund to customers, the credit resulted from an IRS regulation regarding the treatment of capital-related expenditures for federal income tax purposes. Aquarion Water Company, D.P.U. 14-58, at 2 (2014). The TPR did not change the federal corporate income tax rate used to calculate the revenue requirement that underlies Aquarion Water’s rates.

D.P.U. 14-58, at 2; IRS Revenue Procedure 2014-16. Moreover, the TPR refund to Aquarion was associated with income tax refunds for the years 2011 through 2013, with the refunds passed back to customers in the form of a credit from January 1, 2015 through December 31, 2015. D.P.U. 14-58, at 3; Exh. DPU-2-1, Att. (D.P.U. 14-58);<sup>33</sup> Aquarion Water Company of Massachusetts, M.D.P.U. No. 2, First Revised Page 31.

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<sup>33</sup> Pursuant to 220 CMR 1.10(3), the Department incorporates by reference Aquarion Water’s response (including attachments) to Information Request DPU-2-1 filed in D.P.U. 14-58.

Consistent with our discussion in Section V.B, above, the Department finds that the reduction in federal corporate income tax rate as a result of the Act constitutes a significant, known and measurable change in Aquarion Water's cost of service. The Department further finds that this change in Aquarion Water's cost of service rebuts the presumption that rates as of January 1, 2018, are just and reasonable. If the cost of service reduction is not reflected in rates to consumers, Aquarion Water would reap an inappropriate revenue windfall.

D.P.U. 87-21-A at 8.

Aquarion Water states that it was unable to provide revised cost of service schedules or illustrative tariffs incorporating the reduction in federal income tax rates for effect July 1, 2018, and claims that because its current ROE is negative, any attempt to incorporate the reduction would "likely result in an upward rate change for customers" (Exh. DPU-AWC-3-1). Notwithstanding the company's position, it is the level of income tax incorporated in Aquarion Water's current rates, not the company's actual tax status, at issue here. Because Aquarion Water did not, the Department has adjusted the company's cost of service approved in its most recent rate case, Aquarion Water Company, D.P.U. 11-43-A (2012), by incorporating the lower federal income tax rate of 21 percent in the gross-up of taxable income calculation as provided in Schedule 8 of that Order, producing a revised gross-up factor of 1.3538. Use of this revised gross-up factor with the 21 percent federal income tax rate, while holding constant all other components used to establish the revised revenue requirement and design rates, produces a revised overall revenue requirement of \$16,153,419, a decrease of \$399,362 from the revenue requirement approved in

D.P.U. 11-43-A. See D.P.U. 11-43-A at 15. Because Aquarion Water's water treatment plant ("WTP") surcharge calculations apply an income tax gross-up to the cash working capital components of both the lease and operating expense portions of the WTP, the Department has calculated an additional decrease of \$4,816 associated with the company's WTP surcharge. See D.P.U. 11-43-A at 17. Based on above analysis, the Department finds that Aquarion Water's revenue requirement shall be reduced by \$404,178, or 2.44 percent, to account for the impact of the Act.

Consistent with our findings above, Aquarion Water shall adjust rates effective July 1, 2018, to include the reduction in the federal corporate income tax rate. Alternately, because Aquarion Water has a pending rate case pursuant to G.L. c. 164, § 94, for rates effective November 1, 2018, the company may delay this rate change until the effective date of new rates in D.P.U. 17-90 provided the company: (1) shall book as a regulatory liability the tax savings associated with the lower federal corporate income tax expense from July 1, 2018 through the effective date of new rates, with interest at the prime rate; and (2) agrees to return the regulatory liability amount to ratepayers, with interest at the prime rate, through a distribution rate credit that will commence on the date that new rates are established in the company's pending rate case and will terminate one year from that date, unless otherwise directed by the Department.<sup>34</sup> The Department finds that allowing Aquarion Water the option to defer the return of tax savings associated with the period July 1, 2018

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<sup>34</sup> Aquarion Water shall return the entire regulatory liability to ratepayers. To the extent there is a remaining balance after a year, Aquarion Water shall book the remaining balance to Account 317, Other Unadjusted Credits.

through October 31, 2018, with interest at the prime rate, will ensure that ratepayers are not harmed by a delay in the implementation of the tax change beyond July 1, 2018, and is otherwise in the public interest because it will minimize the number and magnitude of rate changes experienced by customers. D.P.U. 18-15, at 6 n.9.

Within seven days of the date of this Order, Aquarion Water shall: (1) submit new schedules of rates and charges effective July 1, 2018, designed to decrease its annual water revenue requirement by \$404,178, and shall design new rates based on the rate design approved in the company's most recent base rate case; or (2) notify the Department that it intends to defer the July 1, 2018 rate change, fully consistent with all conditions described above. The Department will address the refund of any tax savings accrued from January 1, 2018 through June 30, 2018, as well as excess ADIT in phase two of this investigation. Aquarion Water shall continue to book these amounts as regulatory liabilities pending resolution of the investigation.

### 3. Bay State

Bay State has a pending rate case (i.e., D.P.U. 18-45). Bay State asserts that it incorporated the lower federal income tax rate into its proposed base distribution rates in D.P.U. 18-45 (see Exh. CMA/TLS-1, at 22 (D.P.U. 18-45)). In particular, Bay State proposes to implement a revenue requirement that, because of the Act, is \$17.4 million lower than it otherwise would have been, on March 1, 2019, the effective date of any new base distribution rates approved in D.P.U. 18-45 (Exh. CMA/TLS-1, at 22 (D.P.U. 18-45)). Further, Bay State proposes to refund to ratepayers approximately \$12.55 million in tax

savings from the period January 1, 2018 through February 28, 2019, with interest at the prime rate (Exhs. DPU-CMA-1-1, at 2; CMA/MJB-3, Sch. MJB 3-5 at 2, 3 (D.P.U. 18-45)).<sup>35</sup> Bay State proposes to return the majority of these amounts through a distribution rate credit that would be in effect from March 1, 2019 through April 30, 2020, with the remaining \$247,000, associated with the company's local production and storage function, to be refunded through the company's 2019 off-peak CGAC filing (see Exh. CMA/MJB-3, at 17-18 (D.P.U. 18-45)).

The record shows that Bay State's rates include an embedded federal income tax expense based on the previous tax rate of 35 percent (Exhs. DPU-CMA-1-1; Attachment AG-CMA-1-1 (B); CMA/TLS-2, Schs. TLS-2.1, 3, 11, 13 at 8 (D.P.U. 18-45)). Consistent with our discussion in Section V.B above, the Department finds that the reduction in federal corporate income tax rate as a result of the Act constitutes a significant, known and measurable change in Bay State's cost of service. The Department further finds that this change in Bay State's cost of service rebuts the presumption that rates as of January 1, 2018, are just and reasonable.

The Department appreciates the comprehensive nature of Bay State's proposal and, notwithstanding the contingent nature of its proposal to return the tax savings, its willingness to ensure that its ratepayers receive the full benefits of the Act. The Department allows Bay

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<sup>35</sup> Bay State asserts that its proposal to refund tax savings to customers, with interest, for the period starting January 1, 2018, is contingent upon Department approval of its proposal to defer any Act-related rate changes until March 1, 2019 (Exh. DPU-BSG-1-1).

State's proposal to: (1) defer the implementation of the tax rate change on rates until the effective date of new rates in D.P.U. 18-45; and (2) return to ratepayers the amounts associated with tax savings from the period January 1, 2018 through February 28, 2019, with interest at the prime rate (Exhs. DPU-CMA-1-1, at 2; CMA/TLS-1, at 22 (D.P.U. 18-45); CMA/MJB-3, Sch. MJB 3-5 at 2, 3 (D.P.U. 18-45)). We find that this proposal will ensure that ratepayers receive the full benefit of the reduction in the federal income tax rate. Further, we find that Bay State's proposal will ensure that ratepayers are not harmed by a delay in the implementation of the tax change beyond July 1, 2018, and is otherwise in the public interest because it will minimize the number and magnitude of rate changes experienced by customers. D.P.U. 18-15, at 6 n.9. The Department will address the treatment of excess ADIT in phase two of this investigation.

#### 4. Berkshire Gas

Berkshire Gas has a pending rate case (i.e., D.P.U. 18-40). Berkshire Gas states that its proposed revenue requirement in D.P.U. 18-40 reflects the lower federal corporate income tax rate as well as the refund of approximately \$975,000, including a tax gross-up, in tax savings for the 15-month period between January 1, 2018 and March 31, 2019 (Exh. BGC-DSD/AD-1, at 31, 33 (D.P.U. 18-40)). Berkshire Gas proposes to return this amount to customers, with carrying costs, over a five-year amortization period that commences April 1, 2019 (Berkshire Gas Response at 1; BGC-DSD/AD-1, at 31, 33-34 (D.P.U. 18-40)).

The record shows that Berkshire Gas' rates include an embedded federal income tax

expense based on a tax rate of 34 percent (see Attachment AG-BGC-1-2, at 8). Consistent with our discussion in Section V.B above, the Department finds that the reduction in federal corporate income tax rate as a result of the Act constitutes a significant, known and measurable change in Berkshire Gas' cost of service. The Department further finds that this change in Berkshire Gas' cost of service rebuts the presumption that rates as of January 1, 2018, are just and reasonable.

The Department appreciates the comprehensive nature of Berkshire Gas' proposal and its willingness to ensure that its ratepayers receive the full benefits of the Act. The Department allows Berkshire Gas to: (1) defer the implementation of the tax rate change on rates until the effective date of new rates in D.P.U. 18-40; and (2) return to ratepayers the amounts associated with tax savings from the period January 1, 2018 through March 31, 2019, with interest at the prime rate (Berkshire Gas Response at 1; BGC DSD/AD-1, at 31, 33-34 (D.P.U. 18-40)).<sup>36</sup> On this last point, Berkshire Gas proposes to return these funds over a five-year period. The Department finds that this proposed amortization period is not commensurate with the period of tax savings to which ratepayers are entitled.

See Fitchburg Gas and Electric Light Company, D.T.E. 99-66-A at 29 (2001). Instead, Berkshire Gas shall return these funds through distribution rate credit that will commence on the date that new rates are established in the company's pending rate case and will terminate

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<sup>36</sup> Although Berkshire Gas proposes to return these deferred amounts "with interest," it did not specify the interest rate (Berkshire Gas Response at 1). The Department finds that it is appropriate to apply the prime rate as a carrying charge to such balances.

15 months from that date, unless otherwise directed by the Department.

Further, in calculating the tax savings associated with the period from January 1, 2018 through March 31, 2019, Berkshire Gas incorporated a change in state income taxes (Exh. BGC-DSD/AD-1, at 33 (D.P.U. 18-40)). The Department finds that this adjustment is inconsistent with the Department directive in D.P.U. 18-15, at 5, to establish a revised cost of service “incorporating the lower federal corporate income tax rate as of January 1, 2018, and holding all other components used to design rates constant” (emphasis added).

Therefore, Berkshire Gas shall use a state income tax rate of 6.5 percent when calculating tax savings for the period January 1, 2018 through March 31, 2019.<sup>37</sup> Berkshire Gas shall file schedules showing this revised calculation and resulting adjustment to its proposed revenue requirement in D.P.U. 18-40 and as well as in the instant docket.

Based on the above considerations, we find that Berkshire Gas’ proposal, as revised herein, will ensure that ratepayers receive the full benefit of the reduction in the federal income tax rate. Further, we find that Berkshire Gas’ proposal will ensure that ratepayers are not harmed by a delay in the implementation of the tax change beyond July 1, 2018, and is otherwise in the public interest because it will minimize the number and magnitude of rate changes experienced by customers. D.P.U. 18-15, at 6 n.9. The Department will address the treatment of excess ADIT in phase two of this investigation.

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<sup>37</sup> The change in the state income tax rate will be incorporated in the revenue requirement used to develop new base distribution rates in D.P.U. 18-40.



5. Blackstone Gas

As noted above in Section III.C.5, Blackstone Gas seeks a waiver from the directives set forth in D.P.U. 18-15. The Department received no comments addressing Blackstone Gas' waiver request.

The record shows that Blackstone Gas' current embedded federal corporate income tax rate is 21.53 percent (Exh. Blackstone-MW-1, at 11). See also Blackstone Gas Company, D.P.U. 13-53 (2013) (Schedule 8). The Department finds that a downward adjustment by 0.53 percent to a 21.00 percent tax rate would result in a nominal reduction in the company's overall revenue requirement, such that the impact on ratepayers would be de minimis. Unlike the other Affected Companies, the Department finds that the reduction in the federal corporate income tax rate as a result of the Act does not constitute a significant, known and measurable change in Blackstone Gas' cost of service that is sufficient to rebut the presumption that its rates as of January 1, 2018, are just and reasonable.

For these reasons, the Department approves Blackstone Gas' request for a waiver from the requirements in D.P.U. 18-15 to adjust rates effective July 1, 2018, and to refund any tax savings accrued between January 1, 2018 and June 30, 2018 as a result of the Act. The Department will address the treatment of excess ADIT in Blackstone Gas' next rate case.<sup>38</sup> Based on these considerations, Blackstone Gas is no longer required to participate in the instant investigation.

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<sup>38</sup> Blackstone Gas has not yet filed its Annual Return for 2017 and, therefore, the company did not provide an ADIT balance as of December 31, 2017

6. Liberty Utilities

As described above, Liberty Utilities proposes to incorporate the current corporate income tax rate in its base distribution rates beginning July 1, 2018. To this end, Liberty Utilities calculates a revenue requirement reduction of \$929,098 (Exhs. LU-JMS-1, at 5-6; Attachment AG-LU-1-2 (corrected)). Liberty Utilities states that \$48,147 of this amount is associated with the company's local storage and production function and, therefore, proposes to bill it as a component of the CGAC (Exh. LU-JMS-1, at 6). The company proposes to allocate the remaining \$880,951 as a reduction among the customer charge and volumetric base rates for the various customer classes (Exh. LU-JMS-1, at 6). Liberty Utilities also proposes to revise its target revenues in its decoupling mechanism factors so that the application of those factors on an ongoing basis will not have the effect of "undoing" the reduction in the base rates (Exh. LU-JMS-1, at 6).

The record shows that Liberty Utilities' rates include an embedded federal income tax expense based on a tax rate of 34 percent (Exhs. Attachment AG-LU-1-1, at 42; AG-LU-1-2, at 1, 10 (corrected)). Consistent with our discussion in Section V.B above, the Department finds that the reduction in federal corporate income tax rate as a result of the Act constitutes a significant, known and measurable change in Liberty Utilities' cost of service. The

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(Exh. AG-Blackstone-1-4). Given the company's embedded federal corporate income tax rate of 21.53 percent, we find any excess ADIT is likely to be de minimis. Accordingly, the Department finds that it would be more efficient to examine this issue as part of the company's next rate case, rather than requiring the company to continue to incur expenses participating in the instant docket.

Department further finds that this change in Liberty Utilities' cost of service rebuts the presumption that rates as of January 1, 2018, are just and reasonable.

With respect to the company's proposal to adjust its rates starting July 1, 2018, the Department has reviewed Liberty Utilities' revenue requirement calculations and finds them to be accurate (Exhs. LU-JMS-1, at 5-6; Attachment AG-LU-1-2 (corrected)). Further, we find that Liberty Utilities' proposed allocation method is consistent with the method used in company's last rate case, Liberty Utilities (New England Natural Gas Company) Corp. d/b/a Liberty Utilities, D.P.U. 15-75 (2016) (Exh. LU-JMS-1, at 5-6). Finally, we direct Liberty Utilities to make all necessary adjustments to its revenue decoupling mechanism to incorporate the \$929,098 revenue requirement reduction. Accordingly, based on the above findings, the Department approves Liberty Utilities' proposal to adjust rates effective July 1, 2018.

Within seven days of the date of this Order, Liberty Utilities shall submit new schedules of rates and charges effective July 1, 2018, designed to decrease its annual gas revenue requirement by \$929,098. Liberty Utilities shall design new rates consistent with the findings in this Order. The Department will address the refund of any tax savings accrued from January 1, 2018 through June 30, 2018, as well as excess ADIT in phase two of this investigation. Liberty Utilities shall continue to book these amounts as regulatory liabilities pending resolution of this investigation.

7. Milford Water

Milford Water has a pending rate case (i.e., D.P.U. 17-107). Milford Water maintains that it has reduced its proposed revenue requirement in D.P.U. 17-107 by \$332,500 to account for the lower federal corporate income tax rate for rates effective September 1, 2018 (Exh. DPU 3-37, Att. (b) at 9 (D.P.U. 17-107)).

Milford Water contends that no further adjustment as a result of the Act is necessary (Exh. DPU-MWC-3-1). The Department disagrees. The record shows that Milford Water is collecting rates that include an embedded federal income tax expense based on a tax rate of 34 percent (Attachment AG-MWC-1-2, at 8). See also Milford Water Company, D.P.U. 12-86-A at 15 (2013); Milford Water Company, D.P.U. 12-86, at 245 (2013).

Consistent with our discussion in Section V.B above, the Department finds that the reduction in federal corporate income tax rate as a result of the Act constitutes a significant, known and measurable change in Milford Water's cost of service. The Department further finds that this change in Milford Water's cost of service rebuts the presumption that rates as of January 1, 2018, are just and reasonable. If the cost of service reduction is not reflected in rates to consumers, Milford Water would reap an inappropriate revenue windfall. D.P.U. 87-21-A at 8.

While Milford Water provided illustrative bill impacts and tariffs in response to discovery, the company did not provide the underlying calculations supporting the adjustment (Exh. DPU-MWC-3-1, Att.). Therefore, the Department has no basis on which to evaluate the company's calculations. To address this omission, the Department has adjusted the

company's cost of service approved in its most recent rate case (i.e., D.P.U. 12-86-A) by incorporating the lower federal income tax rate of 21 percent in the gross-up of taxable income factor as provided in Schedule 8, producing a revised gross-up factor of 1.3538. See D.P.U. 12-86-A at 15. Use of this revised gross-up factor combined with the 21 percent federal income tax rate, while holding constant all other components used to establish the revised revenue requirement and design rates, produces a revised overall revenue requirement of \$6,856,711, a decrease of \$226,183, or 3.19 percent, from the revenue requirement approved in D.P.U. 12-86-A. See D.P.U. 12-86-A at 15.

Consistent with our findings above, Milford Water shall adjust rates effective July 1, 2018, to include the reduction in the federal corporate income tax rate. Alternately, because Milford Water has a pending rate case pursuant to G.L. c. 164, § 94, for rates effective September 1, 2018, the company may delay this rate change until the effective date of new rates in D.P.U. 17-107 provided the company: (1) shall book regulatory liability the tax savings associated with the lower federal corporate income tax expense from July 1, 2018 through the effective date of new rates, with interest at the prime rate; and (2) agrees to return the regulatory liability amount to ratepayers, with interest at the prime rate, through a distribution rate credit that will commence on the date that new rates are established in the company's pending rate case and will terminate one year from that date, unless otherwise

directed by the Department.<sup>39</sup> The Department finds that allowing Milford Water the option to defer the return of tax savings associated with the period July 1, 2018 through August 31, 2018, with interest at the prime rate, will ensure that ratepayers are not harmed by a delay in the implementation of the tax change beyond July 1, 2018, and is otherwise in the public interest because it will minimize the number and magnitude of rate changes experienced by customers. D.P.U. 18-15, at 6 n.9.

Within seven days of the date of this Order, Milford Water shall submit new schedules of rates and charges effective July 1, 2018, designed to decrease its annual water revenue requirement by \$226,183, and shall design new rates based on the rate design approved in the company's most recent base rate case; or (2) notify the Department that it intends to defer the July 1, 2018 rate change, fully consistent with all conditions described above. The Department will address the refund of any tax savings accrued from January 1, 2018 through August 31, 2018, as well as excess ADIT in phase two of this investigation. Milford Water shall continue to book these amounts as regulatory liabilities pending resolution of the investigation.

8. National Grid (Electric)

National Grid (Electric) argues that it would be more appropriate to delay any Act-related adjustment to base distribution rates until the effective date of rates in its next rate case, however, the company maintains that it will apply the current federal corporate

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<sup>39</sup> Milford Water shall return the entire regulatory liability to ratepayers. To the extent there is a remaining balance after a year, Milford Water shall book the remaining balance to Account 317, Other Unadjusted Credits.

income tax rate to reduce rates effective July 1, 2018, if required by the Department (Exh. NG-1, at 10). National Grid (Electric) asserts that a delay in any Act-related adjustment will allow it to postpone the filing of its rate case; however, the company's proposal does not ensure that ratepayers will receive the full benefit of the tax change during the period before any new rates would take effect.<sup>40</sup> Therefore, the Department finds that the National Grid (Electric) proposal to delay any Act-related adjustment in rates fails to ensure that its ratepayers will receive the full benefits of the Act in a timely manner.

D.P.U. 18-15, at 2.

The record shows that National Grid (Electric)'s rates include an embedded federal income tax expense based on a tax rate of 35 percent (Exhs. NG-1, at 11; NG-2, at 8). Consistent with our discussion in Section V.B above, the Department finds that the reduction in federal corporate income tax rate as a result of the Act constitutes a significant, known and measurable change in the National Grid (Electric) cost of service. The Department further finds that this change in the National Grid (Electric) cost of service rebuts the presumption that rates as of January 1, 2018, are just and reasonable. If the cost of service reduction is not reflected in rates to consumers, National Grid (Electric) would reap an inappropriate revenue windfall. D.P.U.-87-21-A at 8.

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<sup>40</sup> National Grid maintains that it intends to file a rate case at the "end of 2018" (Exh. NG-1, at 10). Pursuant to G.L. c. 164, § 94, any new rates as a result of this rate case would take effect, at the earliest, ten months after the proposed effective date.

National Grid (Electric) has calculated an illustrative revenue requirement reduction effective July 1, 2018, of \$27,879,238 (Exhs. NG-1, at 11; NG-2, at 1; Att. AG-NG-1-1-3, at 1; Att. DPU-NG-1-1-1, at 1). National Grid (Electric) proposes to allocate this reduction to its rate classes based upon its Department-approved distribution revenue allocator (Exh. NG-1, at 11). National Grid (Electric) proposes to divide the allocated decrease by the kWh deliveries for calendar year 2017 for all rate classes except the company-owned street-lighting rate classes (Exh. NG-1, at 11-12). For the company-owned street-lighting rate classes, National Grid (Electric) proposes to design per-lumen and per-pole reductions based on company-owned street-lighting inventory at December 2017 (Exh. NG-1, at 12). Finally, because it operates under a revenue decoupling mechanism that includes rate class-specific annual target revenue amounts that are determined from the final revenue requirement in a general rate case, National Grid (Electric) proposes to revise its decoupling mechanism to reflect the lower total revenue requirement (Exhs. NG-1, at 13; NG-2).

The Department has reviewed National Grid (Electric)'s revenue requirement calculations and finds them to be accurate (Exhs. Attachment AG-NG-1-1-3, at 1; Attachment DPU-NG-1-1-1, at 1). Further, we have reviewed National Grid (Electric)'s proposed allocation method and find it to be appropriate (Exh. NG-1, at 11-12). Finally, we direct National Grid (Electric) to make all necessary adjustments to its revenue decoupling mechanism to incorporate the \$27,879,238 revenue requirement reduction. Accordingly, based on the above findings, the Department approves National Grid (Electric)'s proposal to adjust rates effective July 1, 2018.



Within seven days of the date of this Order, National Grid (Electric) shall file new schedules of rate and charges designed to decrease its annual electric revenue requirement by \$27,879,238. National Grid Electric shall design all rates consistent with the findings contained in this Order. The Department will address the refund of any tax savings accrued from January 1, 2018 through June 30, 2018, as well as excess ADIT in phase two of this investigation. National Grid (Electric) shall continue to book these amounts as regulatory liabilities pending resolution of this investigation.

9. National Grid (Gas)

National Grid (Gas) has a pending rate case (i.e., D.P.U. 17-170). National Grid (Gas) asserts that it has revised its proposed revenue requirement in D.P.U. 17-170 downward by \$29.3 million for Boston Gas Company and \$7.0 million for Colonial Gas Company to account for the effect of the Act as of October 1, 2018, the effective date of any new rates allowed in D.P.U. 17-170 (Exh. NG-RRP-Supplemental-1, at 6 (D.P.U. 17-170)).

National Grid (Gas) proposes to return any excess tax collected from January 1, 2018 through September 30, 2018 only if the company's actual ROE exceeds its allowed ROE (Exh. NG-1, at 19). As noted in Section V.B above, however, the Department does not apply an earnings test to determine the appropriate level of federal corporate income tax expense to include in rates.

The record shows that National Grid (Gas) collects rates that include an embedded federal income tax expense based on a tax rate of 35 percent (Exhs. AG-NG-1-1-1, at 8; AG-NG-1-1-2, at 8). Consistent with our discussion in Section V.B above, the Department

finds that the reduction in federal corporate income tax rate as a result of the Act constitutes a significant, known and measurable change in the National Grid (Gas) cost of service. The Department further finds that this change in the National Grid (Gas) cost of service rebuts the presumption that rates as of January 1, 2018, are just and reasonable. If the cost of service reduction is not reflected in rates to consumers, National Grid (Gas) would reap an inappropriate revenue windfall. D.P.U. 87-21-A at 8.

Consistent with our findings above, National Grid (Gas) shall adjust rates effective July 1, 2018, to include the reduction in the federal corporate income tax rate. Alternately, because National Grid has a pending rate case pursuant to G.L. c. 164, § 94, for rates effective October 1, 2018, the company may delay this rate change until the effective date of new rates in D.P.U. 17-170 provided the company: (1) shall book as regulatory liability the tax savings associated with the lower federal corporate income tax expense from July 1, 2018 through the effective date of new rates, with interest at the prime rate; and (2) agrees to return the regulatory liability amount to ratepayers, with interest at the prime rate, through a distribution rate credit that will commence on the date that new rates are established in the company's pending rate case and will terminate one year from that date, unless otherwise directed by the Department.<sup>41</sup> The Department finds that allowing National Grid (Gas) the option to defer the return of tax savings associated with the period July 1, 2018 through September 30, 2018, with interest at the prime rate, will ensure that ratepayers are not

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<sup>41</sup> National Grid (Gas) shall return the entire regulatory liability to ratepayers. National Grid (Gas) shall reconcile any remaining balance through its local distribution adjustment clause.

harmful by a delay in the implementation of the tax change beyond July 1, 2018, and is otherwise in the public interest because it will minimize the number and magnitude of rate changes experienced by customers. D.P.U. 18-15, at 6 n.9.

Within seven days of the date of this Order, National Grid (Gas) shall submit new schedules of rates and charges effective July 1, 2018, designed to decrease Boston Gas Company's annual gas revenue requirement by \$13,081,804 and to decrease Colonial Gas Company's annual gas revenue requirement by \$3,203,957, and shall design new rates based on the rate design approved in the company's most recent base rate case; or (2) notify the Department that it intends to defer the July 1, 2018, rate change, fully consistent with all conditions described above.<sup>42</sup> The Department will address the refund of any tax savings accrued from January 1, 2018 through June 30, 2018, as well as excess ADIT in phase two of this investigation. National Grid (Gas) shall continue to book these amounts as regulatory liabilities pending resolution of the investigation.

10. NSTAR Electric

NSTAR Electric's base distribution rates incorporated the reduction in the federal corporate income tax rate, effective February 1, 2018. NSTAR Electric Company and Western Massachusetts Electric Company, D.P.U. 17-05-C at 9-11, 60 (February 2, 2018).

Therefore, the Department finds that no adjustment to base distribution rates for effect

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<sup>42</sup> For rates effective July 1, 2018, National Grid (Gas) reports that the impact of the Act reduces Boston Gas Company's current revenue requirement by \$ 13,081,804 and Colonial Gas Company's current revenue requirement by \$3,203,957 (Exh. AG-NG-1-1-1, at 1; AG-NG-1-1-2, at 1).

July 1, 2018, is necessary.

The record shows that NSTAR Electric collected rates in January 2018 that included an embedded federal income tax expense based on a tax rate of 35 percent (Exhs. ES-DPH-1, at 8; AG-NSTAR-1-1, at 1-2). See also D.P.U. 17-05, at 773, 782. Consistent with our discussion in Section V.B above, the Department will address the refund of any tax savings accrued in January 2018 as well as excess ADIT in phase two of this investigation. NSTAR Electric shall continue to book these amounts as regulatory liabilities pending resolution of the investigation.

#### 11. NSTAR Gas

NSTAR Gas proposes to incorporate the current federal corporate income tax rate in its base distribution rates beginning on July 1, 2018 (Exh. ES-DPH-1, at 10). To this end, NSTAR Gas provided two separate calculations of an exemplar revenue requirement for effect July 1, 2018 – one to include and one to exclude proposed cost of service adjustments that are the subject of a pending motion for reconsideration in D.P.U. 14-150 (Exh. ES-DPH-1, at 11-25; AG-NSTAR-1-2).

The record shows that NSTAR Gas' rates include an embedded federal income tax expense based on a tax rate of 35 percent (Exhs. ES-DPH-1, at 26; ES-DPH-2, at 10). Consistent with our discussion in Section V.B above, the Department finds that the reduction in federal corporate income tax rate as a result of the Act constitutes a significant, known and measurable change in NSTAR Gas' cost of service. The Department further finds that this

change in NSTAR Gas' cost of service rebuts the presumption that rates as of January 1, 2018, are just and reasonable.

Consistent with our findings above, and because NSTAR Gas' motion to reconsider in D.P.U. 14-150 remains under advisement, NSTAR Gas shall adjust its rates effective July 1, 2018, to include the reduction in the federal corporate income tax rate using the \$7,307,563 revenue requirement reduction that excludes any cost of service adjustments related to the motion for reconsideration (Exh. AG-NSTAR-1-2).

NSTAR Gas proposes to revise its base distribution rates, effective July 1, 2018, by lowering demand and energy components to meet the revised revenue requirement (Exh. ES-DPH-1, at 11). NSTAR Gas proposes to allocate the reduction in rates using the decoupling revenue targets by rate class and season approved in D.P.U. 14-150, though the company acknowledges that its benchmark revenues per customer decoupling targets will need to be revised (Exhs. ES-RDC-1, at 3-7; ES-RDC-2 through ES-RDC-5). The Department has reviewed NSTAR Gas' revenue requirement calculations and we find them to be accurate (Exh. AG-NSTAR-1-2). Further, we have reviewed NSTAR Gas' proposed allocation method and find it to be appropriate (Exh. ES-RDC-1, at 3-7; ES-RDC-2 through ES-RDC-5). Finally, we direct NSTAR Gas to make all necessary adjustments to its revenue decoupling mechanism to incorporate the \$7,307,563 revenue requirement reduction. Accordingly, based on the above findings, Department approves NSTAR Gas' proposal to adjust rates effective July 1, 2018, based on a \$7,307,563 revenue requirement reduction.

Within seven days of the date of this Order, NSTAR Gas shall file new schedules of rate and charges designed to decrease its annual gas revenue requirement by \$7,307,563, for effect July 1, 2018. NSTAR Gas shall design all rates consistent with the findings contained in this Order. The Department will address the refund of any tax savings accrued from January 1, 2018 through June 30, 2018, as well as excess ADIT in phase two of this investigation. NSTAR Gas shall continue to book these amounts as regulatory liabilities pending resolution of the investigation.

12. Unitil

Unitil (Electric) proposes to reduce its annual revenue requirement by \$799,454 (Exh. Unitil-DLC-1, at 4 (electric)). Further, Unitil (Electric) proposes to return to ratepayers \$404,376 in excess taxes it will have collected from January 1, 2018 through June 30, 2018 as a result of the Act (Exh. Unitil-DLC-1, at 5 (electric)). Unitil (Electric) proposes to implement both its revenue requirement reduction and return of excess taxes through its revenue decoupling adjustment clause (“RDAC”) (Exh. Unitil-DLC-1, at 5 (electric)). Finally, Unitil (Electric) proposes to reduce its target revenues in the RDAC by the annual distribution revenue decrease of \$799,404, effective July 1, 2018 (Exh. Unitil-DLC-1, at 5-6 (electric)).

Unitil (Gas) proposes to reduce its annual revenue requirement by \$799,211, of which \$771,741 is allocated to distribution (Exh. Unitil-DLC-1, at 5 (gas)). Further, Unitil (Gas) proposes to return to ratepayers \$526,572 in excess taxes it will have collected from January 1, 2018 through June 30, 2018, of which \$508,056 is allocated to distribution

(Exh. Unitil-DLC-1, at 5 (gas)). Unitil (Gas) proposes implement both its revenue requirement reduction and return of excess taxes through its RDAC (Exh. Unitil-DLC-1, at 6 (gas)). Finally, Unitil (Gas) proposes to reduce its target revenues in the RDAC by the annual distribution revenue decrease of \$771,741, effective July 1, 2018 (Exh. Unitil-DLC-1, at 6 (gas)).

The record shows that Unitil (Electric)'s and Unitil (Gas)'s rates each include an embedded federal income tax expense based on a tax rate of 34 percent (Exhs. Unitil-DLC-1, at 2, 7 (electric), (gas); Unitil-DLC-2, at 2, 7 (electric), (gas)). Consistent with our discussion in Section V.B above, the Department finds that the reduction in federal corporate income tax rate as a result of the Act constitutes a significant, known and measurable change in Unitil (Electric)'s and Unitil (Gas)'s costs of service. The Department further finds that this change in Unitil (Electric)'s and Unitil (Gas)'s costs of service rebuts the presumption that rates as of January 1, 2018, are just and reasonable.

The Department appreciates the comprehensive nature of Unitil (Electric)'s and Unitil (Gas)'s proposals and its willingness to ensure that its ratepayers receive the full benefits of the Act. The Department recognizes that Unitil was the only Affected Company not engaged in a pending rate case to submit a proposal to both adjust its rates effective July 1, 2018, and voluntarily return to ratepayers tax savings associated with the period January 1, 2018 through June 30, 2018.

The Department has reviewed the Unitil (Electric) and Unitil (Gas) revenue requirement calculations and finds that they are accurate (Exhs. Unitil-DLC-1, at 3-7

(electric), (gas); Unitil-DLC-2 (electric), (gas); Unitil-DLC-3 (electric), (gas)). The Department is not persuaded, however, that Unitil's proposal to implement its revenue requirement reduction and return tax savings through the RDAC is appropriate. Instead, we find that it is more transparent for Unitil to: (1) implement the revenue requirement adjustment through a reduction in base rates and (2) return the tax savings through a distribution rate credit, as discussed below. This method is consistent with the ratemaking treatment of tax savings approved for other gas companies in this proceeding (i.e., Bay State, Berkshire Gas, and National Grid (Gas)).

Within seven days of the date of this Order, Unitil shall submit new schedules of rates and charges effective July 1, 2018, designed to decrease the electric division's annual electric revenue requirement by \$799,454, and reduce the gas division's annual gas revenue requirement by \$799,211. Unitil shall design new rates consistent with the findings contained in this Order. Further, Unitil shall return the tax savings associated with January 1, 2018 through June 30, 2018, to ratepayers, with interest at the prime rate, through a distribution rate credit that will commence on July 1, 2018 and will terminate one year from that date, unless otherwise directed by the Department.<sup>43</sup> The Department will address the refund of excess ADIT in phase two of this investigation. Unitil (Gas) and Unitil

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<sup>43</sup> Unitil shall return the entire regulatory liability to ratepayers. Unitil (Gas) shall reconcile any remaining balance through a reconciling mechanism in its LDAC; Unitil (Electric) shall reconcile any remaining balance through a reconciling mechanism.



(Electric) shall continue to book these amounts as regulatory liabilities pending resolution of the investigation.

## VI. CONCLUSION

As described in D.P.U. 18-15, at 2, 4, the Department opened this investigation to ensure that Massachusetts' ratepayers receive the prompt benefit of this significant change in the federal tax code. With the exception of Blackstone Gas,<sup>44</sup> the Department has found that the reduction in the federal corporate income tax rate as a result of the Act constitutes a significant, known and measurable change in the cost of service for each of the Affected Companies, and that such change rebuts the presumption that rates as of January 1, 2018, are just and reasonable. In order to ensure that the Affected Companies do not reap an inappropriate revenue windfall as a result of the Act, the Department has implemented various rate changes in this Order. D.P.U. 87-21-A at 8.

The Department has found that the following Affected Companies are required to revise their base distribution rates to incorporate the lower federal corporate income tax rate for effect July 1, 2018: Agawam Springs, Pinehills Water, Liberty Utilities, National Grid (Electric), NSTAR Gas, Unitil (Electric), and Unitil (Gas).<sup>45</sup> The following Affected Companies also will be required to revise their base distribution rates to incorporate the

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<sup>44</sup> The Department found that the nominal reduction in Blackstone Gas' overall revenue requirement as a result of the Act was not sufficient to rebut the presumption that its rates as of January 1, 2018, are just and reasonable.

<sup>45</sup> NSTAR Electric's current base distribution rates incorporate the lower federal corporate income tax rate and, therefore, no rate change on July 1, 2018 is required.

lower federal corporate income tax rate for effect July 1, 2018: Aquarion Water, Bay State, Berkshire Gas, Milford Water, and National Grid (Gas). However, because each of these Affected Companies has a pending rate case filed pursuant to G.L. c. 164, § 94, the Department has found that they may delay this rate change until the effective date of new rates provided each company: (1) shall book as regulatory liability the tax savings associated with the lower federal corporate income tax expense from July 1, 2018 through the effective date of new rates, with interest at the prime rate; and (2) agrees to return these amounts to ratepayers as directed herein.

In addition, the Department has approved the proposals of Bay State, Berkshire Gas, Unitil (Electric), and Unitil (Gas) to refund tax savings accrued from January 1, 2018 through June 30, 2018. We commend these companies for their recognition that the benefits of such tax savings should promptly be returned to ratepayers. For the remaining Affected Companies, the Department will address the refund of any tax savings accrued from January 1, 2018 through June 30, 2018, in phase two of this investigation.<sup>46</sup> Finally, the Department will address the flowback of any excess recovery in rates of ADIT resulting from the Act in phase two of this investigation.

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<sup>46</sup> For NSTAR Electric, the Department will address the refund of tax savings accrued in January 2018.

VII. ORDER

Accordingly, after due notice, hearing, opportunity for comment and consideration, it is

ORDERED: That Agawam Springs Water Company, within seven days of the date of this Order, shall file new schedules of rates and charges designed to its decrease annual water revenues by 8.45 percent from current revenues, and shall design all rates in compliance with this Order; and it is

FURTHER ORDERED: That the new rates applicable to Agawam Springs Water Company shall apply to water consumed on or after July 1, 2018, but unless otherwise ordered by the Department, shall not become effective earlier than seven days after the rates are filed with supporting data demonstrating that such rates comply with this Order; and it is

FURTHER ORDERED: That Pinehills Water Company, within seven days of the date of this Order, shall file new schedules of rate and charges designed to decrease its annual water revenues by 7.42 percent from current revenues, and shall design all rates in compliance with this Order; and it is

FURTHER ORDERED: That the new rates applicable to Pinehills Water Company shall apply to water consumed on or after July 1, 2018, but unless otherwise ordered by the Department, shall not become effective earlier than seven days after the rates are filed with supporting data demonstrating that such rates comply with this Order; and it is

FURTHER ORDERED: That Aquarion Water Company of Massachusetts, Inc., within seven days of the date of this Order, shall: (1) submit new schedules of rates and charges designed to decrease its annual water revenue requirement by \$404,178, and shall design new rates based on the rate design approved in the company's most recent base rate case; or (2) notify the Department that it intends to defer the July 1, 2018 rate change, fully consistent with all conditions described in this Order; and it is

FURTHER ORDERED: That to the extent Aquarion Water Company of Massachusetts, Inc. submits new schedules of rates and charges, the new rates applicable to Aquarion Water Company of Massachusetts, Inc. shall apply to water consumed on or after July 1, 2018, but unless otherwise ordered by the Department, shall not become effective earlier than seven days after the rates are filed with supporting data demonstrating that such rates comply with this Order; and it is

FURTHER ORDERED: That Bay State Gas Company, d/b/a Columbia Gas of Massachusetts shall: (1) defer the implementation of the tax rate change on rates until the effective date of new rates in D.P.U. 18-45; and (2) return to ratepayers the amounts associated with tax savings from the period January 1, 2018 through February 28, 2019, with interest at the prime rate, consistent with the directives contained in this Order; and it is

FURTHER ORDERED: That The Berkshire Gas Company shall: (1) defer the implementation of the tax rate change on rates until the effective date of new rates in D.P.U. 18-40; and (2) return to ratepayers the amounts associated with tax savings from the period January 1, 2018 through March 31, 2019, with interest at the prime rate, consistent

with the directives contained in this Order; and it is

FURTHER ORDERED: That Liberty Utilities (New England Natural Gas Company) Corp. d/b/a Liberty Utilities, within seven days of the date of this Order, shall file new schedules of rates and charges designed to decrease its annual gas revenue requirement by \$929,098, and shall design all rates in compliance with this Order; and it is

FURTHER ORDERED: That the new rates applicable to Liberty Utilities (New England Natural Gas Company) Corp. d/b/a Liberty Utilities shall apply to gas consumed on or after July 1, 2018, but unless otherwise ordered by the Department, shall not become effective earlier than seven days after the rates are filed with supporting data demonstrating that such rates comply with this Order; and it is

FURTHER ORDERED: That Milford Water Company, within seven days of the date of this Order, shall: (1) submit new schedules of rates and charges designed to decrease its annual water revenue requirement by \$226,183, and shall design new rates based on the rate design approved in the company's most recent base rate case; or (2) notify the Department that it intends to defer the July 1, 2018 rate change, fully consistent with all conditions described in this Order; and it is

FURTHER ORDERED: That to the extent Milford Water Company submits new schedules of rates and charges, the new rates applicable to Milford Water Company shall apply to water consumed on or after July 1, 2018, but unless otherwise ordered by the Department, shall not become effective earlier than seven days after the rates are filed with supporting data demonstrating that such rates comply with this Order; and it is

FURTHER ORDERED: That Massachusetts Electric Company and Nantucket Electric Company, each d/b/a National Grid, within seven days of the date of this Order, shall file new schedules of rate and charges designed to decrease their annual electric revenue requirement by \$27,879,238, and shall design all rates in compliance with this Order; and it is

FURTHER ORDERED: That the new rates applicable to Massachusetts Electric Company and Nantucket Electric Company, each d/b/a National Grid shall apply to electricity consumed on or after July 1, 2018, but unless otherwise ordered by the Department, shall not become effective earlier than seven days after the rates are filed with supporting data demonstrating that such rates comply with this Order; and it is

FURTHER ORDERED: That Boston Gas Company and Colonial Gas Company, each d/b/a National Grid shall: (1) submit new schedules of rates and charges designed to decrease Boston Gas Company's annual gas revenue requirement by \$13,081,804 and decrease Colonial Gas Company's annual gas revenue requirement by \$3,203,957; or (2) notify the Department that it intends to defer the July 1, 2018 rate change, fully consistent with all conditions described above; and it is

FURTHER ORDERED: That to the extent Boston Gas Company and Colonial Gas Company, each d/b/a National Grid submits new schedules of rates and charges, the new rates applicable to Boston Gas Company and Colonial Gas Company, each d/b/a National Grid shall apply to gas consumed on or after July 1, 2018, but unless otherwise ordered by the Department, shall not become effective earlier than seven days after the rates are filed

with supporting data demonstrating that such rates comply with this Order; and it is

FURTHER ORDERED: That NSTAR Gas Company, d/b/a Eversource Energy, within seven days of the date of this Order, shall file new schedules of rate and charges designed to decrease its annual gas revenue requirement by \$7,307,563, and shall design all rates in compliance with this Order; and it is

FURTHER ORDERED: That the new rates applicable to NSTAR Gas Company, d/b/a Eversource Energy shall apply to gas consumed on or after July 1, 2018, but unless otherwise ordered by the Department, shall not become effective earlier than seven days after the rates are filed with supporting data demonstrating that such rates comply with this Order; and it is

FURTHER ORDERED: That Fitchburg Gas and Electric Light Company, d/b/a Unitil (electric division), within seven days of the date of this Order, shall file new schedules of rate and charges designed to decrease its annual electric revenue requirement by \$799,454, and shall design all rates in compliance with this Order; and it is

FURTHER ORDERED: That the new rates applicable to Fitchburg Gas and Electric Light Company, d/b/a Unitil (electric division) shall apply to electricity consumed on or after July 1, 2018, but unless otherwise ordered by the Department, shall not become effective earlier than seven days after the rates are filed with supporting data demonstrating that such rates comply with this Order; and it is

FURTHER ORDERED: That Fitchburg Gas and Electric Light Company, d/b/a Unitil (gas division), within seven days of the date of this Order, shall file new schedules of rate and charges designed to decrease its annual gas revenue requirement by \$799,211, and shall design all rates in compliance with this Order; and it is

FURTHER ORDERED: That the new rates applicable to Fitchburg Gas and Electric Light Company, d/b/a Unitil (gas division) shall apply to gas consumed on or after July 1, 2018, but unless otherwise ordered by the Department, shall not become effective earlier than seven days after the rates are filed with supporting data demonstrating that such rates comply with this Order; and it is



FURTHER ORDERED: That Agawam Springs Water Company; Pinehills Water Company; Aquarion Water Company of Massachusetts, Inc.; Bay State Gas Company d/b/a Columbia Gas of Massachusetts; The Berkshire Gas Company; Liberty Utilities (New England Natural Gas Company) Corp. d/b/a Liberty Utilities; Massachusetts Electric Company and Nantucket Electric Company, each d/b/a National Grid; Boston Gas Company and Colonial Gas Company, each d/b/a National Grid; Milford Water Company; NSTAR Electric Company, d/b/a Eversource Energy; NSTAR Gas Company, d/b/a Eversource Energy; and Fitchburg Gas and Electric Light Company d/b/a Unitil shall comply with all other orders and directives contained in this Order.

By Order of the Department,

/s/

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Angela M. O'Connor, Chairman

/s/

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Robert E. Hayden, Commissioner

/s/

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Cecile M. Fraser, Commissioner

An appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part. Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of the twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. G.L. c. 25, § 5.